# CHAPTER 12

# ZONING CODE

12.01 **ORDINANCE NO. 601** An ordinance to repeal and recreate Chapter 12 of the Municipal Code of the City of New Holstein, also referred to as the Zoning Code of the City of New Holstein. Adopted January 20th, 2016.

12.02 **TITLE:** This Chapter shall be known, cited and referred to as the City of New Holstein Zoning Ordinance except as referred to herein as "this Chapter," or as "this Code," or as "this Ordinance," which shall imply the same wording and meaning as the full title.

## 12.03 INTENT, PURPOSE, AND INTERPRETATION:

(1) Intent and Purpose. The provisions of this Chapter shall be held to the minimum requirements adopted to promote health, safety, comfort, prosperity and general welfare of the City. It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to laws; provided, however, that where this Chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this Chapter shall govern.

This Chapter is adopted for the purpose of: dividing the City into zones and districts restricting and regulating herein the location, construction, reconstruction, alteration and use of structures and land; promoting orderly development of the residential, business, industrial, recreational and public areas; providing adequate light, air and convenience of access to property; limiting congestion in the public right-of-way; preventing overcrowding of land and undue concentration of structures by regulating the use of land and buildings in relation to the land and buildings surrounding them; to facilitate adequate provisions for transportation, sewerage, water, schools, parks, and other public facilities; providing for the compatibility of different land uses and the most appropriate use of land throughout the City; utilizing the city's adopted comprehensive plan as a guiding document and providing for the administration, enforcement and amendment.

(2) Interpretation. For this Chapter, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory not directory; the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual; the word "used" includes designed and intended or arranged to be used; the word "building" includes the word "structure"; the word "lot" includes "building lot" or parcel. Wherever this code imposes a greater restriction than imposed by other codes, laws, or regulations; the provisions of this Chapter shall govern. In any case where

there is doubt as to the meaning or intent of this Chapter as applied to any proposed use, the Building Inspector shall submit the application for a building permit or proposal for open land use to the Planning Commission who shall prepare a report to the City Council; the City Council shall determine if the permit or request may be permitted.

## 12.04 APPLICATION AND REGULATIONS

(1) Except as hereinafter provided, no building or other structure shall hereafter be erected, reconstructed, or structurally altered, nor shall any building or other structure or land be used hereafter for any purpose other than is permitted in the district in which such building or other structure or land is located.

(2) Except as hereinafter provided, no building or other structure shall hereafter be erected, reconstructed or structurally altered to exceed the height limit herein established for the district in which such building or other structure is located.

(3) Except as hereinafter provided, no lot area shall hereafter be so reduced or diminished that the yards or other open spaces shall be smaller than described by this Chapter, and no building shall be occupied by more families than prescribed for such building, structure, or premise for the district in which it is located.

(4) Except as hereinafter provided, no yard or other open space provided about any building or other structure for the purposes of complying with the provisions of these regulations shall be considered as providing yard or open space for any other building or structure, provided further that no yard or open space on an adjoining property shall be considered as providing a yard or open space on a lot whereon a building or other structure is to be erected.

(5) Every building or other structure hereafter erected shall be located on a lot as herein defined, and in no case shall there be more than one (1) building or structure on one (1) lot, except as hereinafter provided.

## 12.05 DEFINITIONS:

(1) **Accessory Building.** A subordinate building or portion of the main building, the use of which is incidental to that of the main building.

(2) **Accessory Use.** A use subordinate in nature, extent, or purpose to the principal use of the building or lot.

(3) **Alley.** A public right-of-way, with a width not exceeding 21 feet which affords a secondary means of access to abutting property.

(4) **Apartment.** A room or suite with cooking facilities available which is occupied as a residence by a single family; includes dwelling unit and efficiency unit.

(5) **Assisted Living Facility.** Defined by Wisconsin State Statutes.

(6) **Automobile Repair-Major.** General repair, rebuilding of trailers, including body work, framework and major painting service.

(7) **Automobile Repair-Minor.** The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger automobiles and trucks not in excess of 3/4 ton rating.

(8) **Auto Reduction Yard.** A lot or yard where one or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, repairing, rebuilding, sale of parts, sale as scrap, storage or abandonment.

(9) **Basement.** The portion of a building below the main floor, having supporting structural qualities for the building and generally located partially or wholly below ground level.

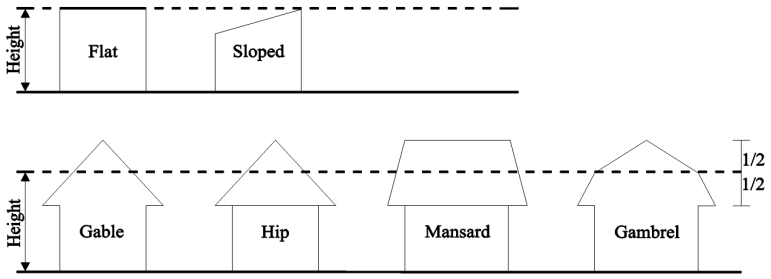
(10) **Bed and Breakfast Establishments.** Any place of lodging that provides 8 or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a 12-month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast. Reference the state of Wisconsin for health and sanitation permits required for these operations.

(11) **Board, Board of Appeals.** The Zoning and Planning Board of Appeals.

(12) **Building.** Any structure having a roof which may provide shelter or enclosure of persons, animals or personal property, and when said structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building. For this Chapter, "structure" shall mean the same as "building."

(13) **Building Area.** The maximum horizontal projected area of a building and its accessory buildings excluding open steps, terraces and cornices projecting not more than 30 inches.

(14) **Building Height.** The vertical distance from: (a) the average elevation of the adjoining ground level; or (b) the property line grade, whichever is lower to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.




(15) **Carport.** An open-sided roofed automobile shelter, usually formed by extension of the roof from the side of a building.

(16) **Cemetery.** A place or area set apart for the burial of human bodies by marking and distinguishing the area as a place of burial and includes burial lots as subdivided in a cemetery plat in accordance with Sec. 157.07, WI Stats. Cemeteries may include crematoriums, mausoleums, and columbariums as associated uses.

(17) **Dwelling.** A building or one or more portions thereof occupied or intended to be occupied exclusively for residence purposes, but not including rooms in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches or mobile homes. A dwelling shall not be interpreted to include lodging rooms.

(18) **Dwelling-Attached.** A dwelling which is joined to another dwelling at one or more sides by party wall or walls.

(19) **Dwelling-Detached.** A dwelling which is entirely surrounded by open space on the same lot.

(20) **Employee or Staff Member.** A person who works full-time at the building or use regulated. For computation of the sum of employees, at a use scheduling more than one shift, the sum shall be based on the maximum number of employees at any one shift.

(21) **Essential Services.** Underground or overhead electrical, gas, steam or water transmission or distribution systems; collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings.

(22) **Family.** An individual, or 2 or more persons related by blood, marriage or adoption living together as a single housekeeping unit; or a group of not more than 4 persons not so related, maintaining a common household.

(23) **Family Child Care Center.** A facility where a person provides care and supervision for less than 24 hours a day for at least 4 and not more than 8 children who are not related to the provider.

(24) **Fence.** A fence shall be defined for the purpose of this ordinance as any type of materials or structures that delineate the boundaries between two parcels of land, or that delineate and describe an area to be contained, even though persons might pass through the same, meaning to broadly establish as an example of a fence such things as a moat, a retaining wall, a line of posts - even without connection to each other but set in a line to delineate a certain area for the landowner or lessee's purposes. Other items are such as a split rail, guard posts, any fence described in this ordinance, or any type of man-made marking of an area regardless of whether it causes a restraint of persons, animals, or other items passing from one owner's or lessee's property to the other.

(25) **Floor Area.** The sum of the gross areas of the building floor(s), exclusive of porches, balconies, garages, and basements. Measurements shall be made from the inside of the exterior walls and to the center of the interior walls.

(26) **Frontage.** All property abutting on street right-of-way.

(27) **Garage-Private.** A detached accessory building or portion of the principal building, including a carport, which is used primarily for storing not more than 3 passenger vehicles, trailers or one truck of a rated capacity not in excess of 1-1/2 tons.

(28) **General Floor Plans.** A graphic representation of the anticipated utilization of the floor area within a building or structure, to include height and width dimensions, but not necessarily as detailed as construction plans.

(29) **Home Occupation.** Any gainful occupation or profession engaged in by the occupants of the dwelling when conducted within the dwelling, or attached accessory building or upon a parcel of land containing the dwelling unit including gardening on such parcel, provided that evidence of the occupation other than gardening is not visible from the street; and that the use does not adversely affect the character of the uses permitted in the district in which it is located.

(30) **Hotel.** A Place where sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all related rooms, buildings and areas.

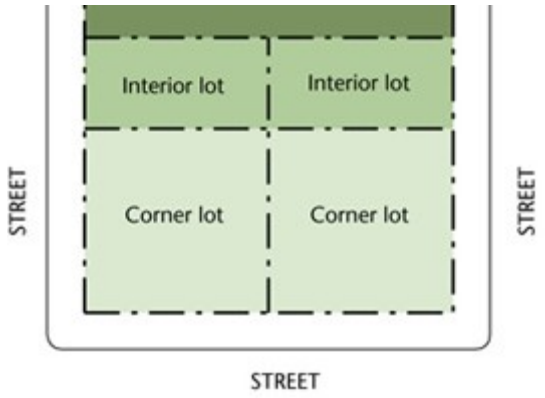
(31) **Junk Yard.** An area where used, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to, scrap iron, other metals, paper, rags, rubber products, plastic products, bottles, and lumber. Storage of such material in conjunction with a permitted manufacturing process on the lot when within an enclosed area or building shall not be included.

(32) **Lot of Record.** A platted lot or parcel described by metes and bounds which has been recorded in the office of the Register of Deeds prior to the adoption of this Chapter.

(33) **Lot, Corner.** A lot situated at the junction of, abutting on 2 or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

(34) **Lot, Depth.** The mean horizontal distance between the front lot line and the rear lot line of a lot.

(35) **Lot, Interior.** A lot other than a corner lot.




(36) **Lot Line.** A lot line is the property line bounding a lot except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line for applying this Chapter.

(37) **Lot Line-Front.** That boundary of the lot which abuts an existing or dedicated public street and, in the case of a corner lot, it shall be the shortest dimension on a public street.

(38) **Lot Line-Rear.** That boundary of a lot which is opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

(39) **Lot Line-Side.** Any boundary of a lot which is not a front lot line or a rear lot line.

(40) **Lot, Through.** An interior lot having frontage on 2 streets.

(41) **Lot Width.** The maximum horizontal distance between the side lot lines of a lot measured parallel to the front lot line and within the building area of the lot.

(42) **Mobile Home.** Is that which is not less than 35 feet in length and was originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used for a single-family dwelling unit suitable for year-round occupancy and which is equipped with complete bath and toilet facilities, all furniture, cooking and heating appliances.

(43) **Motel.** A hotel that furnishes on-premise parking for motor vehicles of transient guests as part of the room charge, without extra cost, and that is identified as a "motel" rather than a "hotel" at the request of the operator.

(44) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is transferred or stored for movement in intra-state or interstate shipment by motor truck.

(45) **Motor Fuel Station.** A retail place of business engaged primarily in the sale of motor fuels, but also may be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles. These may include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories, and replacement items, washing and lubrication services; and the performance of minor automotive maintenance and repair.

(46) **Motor Fuel Convenience Store.** Any store operated in conjunction with a major fuel station or truck stop for the purpose of offering for sale goods not essential to the motoring public.

(47) **Non-Conforming Structure.** Any structure which is existing upon the effective date of this Chapter, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this Chapter.

(48) **Non-Conforming Use.** Use of land, buildings or structures existing at the time of adoption of this Chapter, which does not comply with all the regulations of this Chapter or any amendments hereto governing the zoning district in which such use is located.

(49) **Noxious Matter or Materials.** Material capable of causing injury to living organisms by chemical reaction, or which is capable of causing detrimental effects on the physical or economic well-being of individuals.

(50) **Open Sales Lot.** Land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

(51) **Performance Standard.** Criterion established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards or glare of heat generated by or inherent in uses of land or buildings.

(52) **Planning Commission.** Within this Chapter the term "Planning Commission" shall refer to the Planning Commission of the City of New Holstein.

(53) **Professional Office.** The officer of a recognized profession including the offices of doctors, physicians, dentists, optometrists, ministers, architects, professional engineers, lawyers, and such other similar professional occupations; including the offices of charitable organizations and including insurance or financial institutions which conduct activities principally by mail.

(54) **Property Line Grade.** The elevation of the property line in front of a building measured at the center of such building as established by the City. Where no property line grade has been established, the mean elevation of the finished lot grade at the property line shall be considered the "existing" property line grade.

(55) **Pump Setback.** The distance from the street right-of-way line to the center line of the motor fuel station pump island measured as a perpendicular distance from the right-of-way.

(56) **Right of Way.** Land acquired for a specific purpose, such as a utility or roadway. It is advisable for property owners to utilize a surveying or engineering firm to determine Right of Way locations as needed as Right of Ways vary throughout the city.

(57) **Setback.** The minimum horizontal distance between the front line of the building, including porches, and the street right-of-way line.

(58) **Sexually Oriented Business.** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult mini-motion picture theater or escort agency.

(59) **Sign.** The term "sign" shall mean any written announcement, declaration, demonstration, display, illustration, insignia or illumination used to advertise or promote the interest of any person when the same is displayed or placed out of doors in view of the general public and shall include every detached sign.

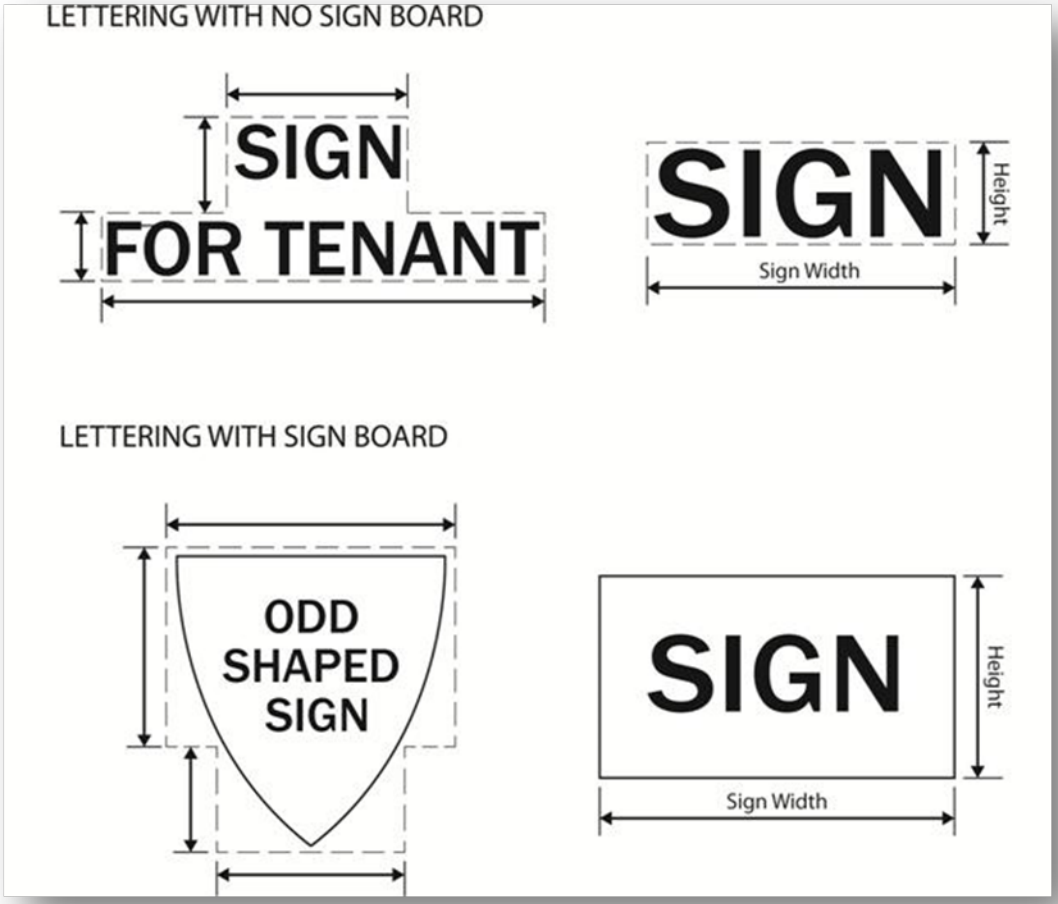
(60) **Sign(Billboard).** A sign which directs attention to a business, community service or entertainment not exclusively related to the premises where such sign is located.

(61) **Sign-Business.** A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered on the premises on which such sign is located.

(62) **Sign-Flashing.** An illuminated sign on which the artificial light is not maintained constant in intensity and color at all times in which such sign is in use.

(63) **Sign-Nameplate.** A "nameplate sign" shall mean any sign which states the name or address or both of the business or occupant of the lot where the sign is placed or may be a directory listing the names, address and business of occupants.

(64) **Sign-Gross Area Of.** Sign measurement area shall be calculated by the edge of the sign board/back. Where signage does not have a sign board/back or for odd shaped signs, the area of lettering and/or symbols shall be calculated. The applicant shall submit dimensions as part of the sign permit process.




(65) **Sign-Illuminated.** Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

(66) **Stable, Private.** A stable with a capacity for not more than 4 horses and 4 vehicles.

(67) **Stable, Public.** A stable with a capacity for more than 4 horses and 4 vehicles.

(68) **Stand, Fruit and Produce.** Building or premises used primarily for one or more of the following:

(a) Sale of fruit or produce from a service window, counter or exterior area of a building.

(b) Major display of goods in an exterior or semi-enclosed area associated with a building.

(69) **Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

(70) **Story, Half.** That portion of a building in the First and Second Residence districts, between the eaves and ridge lines of a pitched roof, which may or may not be used for tenant purposes.

(71) **Street.** A public thoroughfare more than 20 feet wide.

(72) **Structural Alteration.** Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or any substantial change in the roof structure or in the exterior walls.

(73) **Tourist Rooming House.** All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments. Reference the state of Wisconsin for health and sanitation permits required for these operations.

(74) **Truck Stop.** A motor fuel station devoted principally to the needs of over-the-road tractor trailer units and trucks and which shall include eating or sleeping facilities.

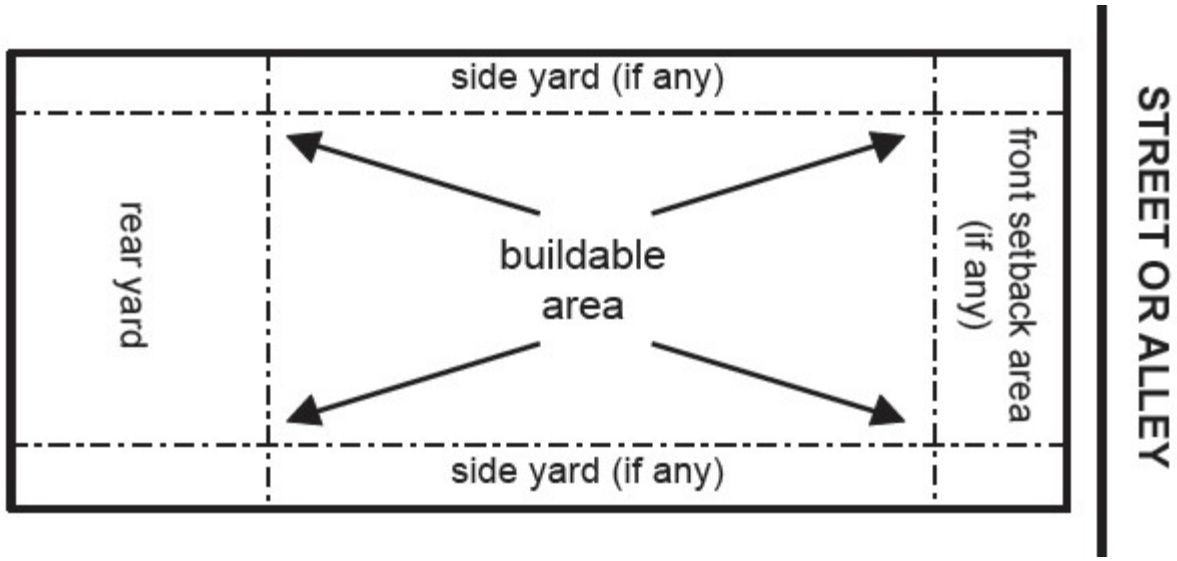
(75) **Use-Conditional.** Either a public or private use which because of its unique characteristics, cannot be accorded the status of a permitted use in a particular district.

(76) **Use-Permitted.** A public or private use which of itself conforms with the purposes and objectives of a particular district and conforms with all requirements, regulations and performance standards (if any) of such district.

(77) **Use-Principal.** The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

(78) **Warehouse.** A building where raw materials or manufactured goods may be stored.

(79) **Yard.** A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky except as expressly permitted in this Chapter. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.




(80) **Yard-Front.** A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front **street right-of-way** line to a depth required in the setback regulations for the district in which such lot is located.

(81) **Yard-Rear.** A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

(82) **Yard-Side.** A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

(83) **Downtown.** Those properties fronting Wisconsin Avenue from the corner of Wisconsin Avenue and Calumet Drive east to the corner of Wisconsin Avenue and Milwaukee Drive. Those properties fronting Main Street north from Wisconsin Avenue to Railroad Street.(Cr. #299)

## 12.06 DISTRICTS AND MAPS:

12.06.01 **Districts.** In order to regulate and restrict the location of trades, industries, residences and other uses, and the location of buildings designed, erected, altered or occupied for specific purposes, to regulate and limit the height and size of buildings hereafter erected or altered, to regulate and determine the area of yards and other open spaces, and to regulate and limit the density of population, the City of New Holstein is hereby divided in the zoning districts specified herein:

A) Residential Districts

1) "R-A" Residential-Agricultural District
2) "R-1" Single-Family Residential District
3) "R-2" Multiple-Family Residential District Low Density
4) "R-3" Multiple-Family Residential District High Density

B) Commercial Districts

1) "C-1" General Commercial District

C) Industrial Districts

1) "I-1" Light Industrial District
2) "I-2" Heavy Industrial District

D) Flood Plain Districts

(1) **Boundaries of Districts.** Where uncertainty exists with respect to the boundaries of the various districts as shown upon the Zoning Map, the following rules shall apply:

(a) The district boundaries are the streets and alleys unless otherwise shown, and where the district designated on the maps is bounded approximately by streets or alley lines, said street or alley shall be construed to be the boundary of such district.

(b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the districts designated on the map are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map. Where district lines are fixed by dimensions, individual owners of lots split by such district lines will be permitted a tolerance of 25 feet in the use of said lots.

(c) Unless otherwise clearly defined by streets, alleys, lots, drainage courses or other definite means, the district boundary lines on the map shall be determined by use of the scale contained on such map.

12.06.02 **Provision of Official Zoning Map.** The City has been divided into zones, or districts, and has maintained official zoning maps which together with all explanatory matter thereon, have been in existence and have been adopted and have been declared to be part of the ordinance as of the time of original zoning ordinance adoption on January 12, 1983.

(1) **Map Certified.** The Common Council does adopt the Official Zoning Map promulgated by the City Engineers, Robert E. Lee & Associates, Inc. and dated August 17, 2011. This zoning map shall be maintained in the office of the City Clerk and is certified as the Official Zoning Map. The Official Zoning Map will be updated periodically and will be updated by the engineering firm or whomever else may be delegated by the Common council to update the Official Zoning Map. Upon updating of the Official Zoning Map, the Common Council shall be required to review the same and adopt any amendments hereafter which shall from that time forward, become the Official Zoning Map and remain the Official Zoning Map until amendment as provided herein.

(2) **Location of Map.** The Official Zoning Map shall be in the custody of, and shall remain on file in the office of the Zoning Administrator.

(3) **Public Inspection of Map.** The Official Zoning Map shall be available for public inspection as provided by law for all matter which is of public record.

12.06.03 **Amendment of Official Zoning Map.** When changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be effective upon the Common Council taking action to amend the Official Zoning Map. A copy of the resolution amending the zoning map shall be maintained with the zoning map until such time as it is officially amended by the City Engineer or such person or persons designated by the Common Council. The amendment to the zoning map becomes effective upon passage by resolution by the Common Council. (Ord. #544, 8/17/11)

## 12.07 NON-CONFORMING USES AND STRUCTURES:

In order to avoid individual hardship whenever reasonable, and not in conflict with the general welfare of the City of New Holstein, and for purposes herein outlined, the following provisions shall apply to all districts.

(1) **Non-Conforming Uses Permitted.** Any lawful use of any structure or land existing at the effective date of this Code may be continued at the size and manner of operation existing upon such date, even though such use does not conform to the provisions of this Code.

(2) **Enlargement of Non-Conforming Use.** A non-conforming use shall not be extended, but the extension of a use to any portion of a building which portion is at the time of the adoption of this Code primarily arranged or designed for such non-conforming use, shall not be deemed to be an extension of a non-conforming use.

(3) **Restoration.** Whenever a lawful non-conforming structure shall have been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, it may be reconstructed and used as before if it be reconstructed within 12 months after such calamity, unless the damage to the building or structure is 50% of its fair market value as estimated by the Building Inspector and approved by the Council, in which case the reconstruction shall be for a use in accordance with the provisions of this Chapter, except where a structure is damaged more than 50% of its fair market value, the owner may within 6 months apply for a special permit for approval to reconstruct a non-conforming structure for use in the same manner as prior to the damage. The Council may grant such permit providing the structure complies with other requirements of the Municipal Code.

(4) **Alterations and Maintenance.** Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use. Alterations may be made to a building containing lawful non-conforming residential units when they will improve the liability thereof,

provided they will not increase the number of dwelling units or bulk of the building except that a garage may be added if none previously existed. Nothing in this Code shall prevent the placing of a structure in a safe condition when such structure is declared unsafe by the Building Inspector.

(5) **Discontinuance.** If a non-conforming use of any structure or land is discontinued for a period of 6 months, any future use of the structure and premises shall be in conformity with the provisions of this Code.

(6) **Changes in Code.** The foregoing provisions of this section shall also apply to non-conforming uses in districts hereafter changed.

(7) **Order of Classification of Districts.** The order of classification of uses from the highest to the lowest for the purposes of this Code shall be as follows:

(a) Residential-Agricultural "R-A"
(b) Single-Family Residential "R-1"
(c) Multi-Family Residential Low Density "R-2"
(d) Multi-Family Residential High Density "R-3"
(e) General Commercial District "C-1"
(f) Light Industrial "I-1"
(g) Heavy Industrial "I-2"
(h) Planned Unit Development "P.U.D."

(8) **Changes of Non-Conforming Uses.** A non-conforming use may be changed to a use of a higher classification but not to a use of a lower classification, nor shall a non-conforming use be changed to another use of the same classification unless the new use shall be deemed by the Board of Appeals, after public notice and hearing, to be no more harmful to the surrounding neighborhood, from the standpoint of the purposes of this Code, than the existing non-conforming use.

## 12.08 GENERAL PROVISIONS:

### 12.08.01 Lot Provisions.

(1) A lot of record existing upon the effective date of this Chapter in an "R" Residential District, which does not meet the requirements of this Chapter as to area or width may be utilized for single-family detached dwelling purposes provided the measurements of such area and width are within 70% of the requirements of this Chapter, but such lot of record shall not be more intensively developed unless combined with one or more abutting lots or portions thereof so as to create a lot meeting the requirements of this Chapter.

(2) No lot may be reduced in area below the minimum lot area as specified herein for the district in which the lot is located, except all parts of a vacant lot may be attached to adjoining lots and the vacant lot, as such, be eliminated as a lot for the purpose of this Code.

(3) Except in the case of planned unit developments as provided for hereinafter, not more than one principal building shall be located in a lot.

(4) SUBDIVIDING. Lots contained in the City of New Holstein shall not be redivided or subdivided in any way without the approval of the Plan commission and Common Council of the City of New Holstein.(Cr. #325)

12.08.02 **Accessory Buildings.**

(1) No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(2) Attached garages shall not have a larger footprint or height than the house it is attached to.

(3) An accessory building which is not a part of the principal building shall not occupy more than thirty percent of the area of the required rear yard, shall not exceed the height of the principal building or the height of twelve feet, whichever is less, nor shall it be nearer than six (6) feet to any lot line and limiting a parcel to one (1) accessory building, no larger than two hundred sixteen (216) square feet on parcels with primarily residential use.(Rep. & Recr. #325)(Rep. & Recr. #540)

(4) In all "R" districts, accessory buildings shall be built so that the total building coverage of the lot (including the main building area) does not exceed 35 percent.

(5) No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.

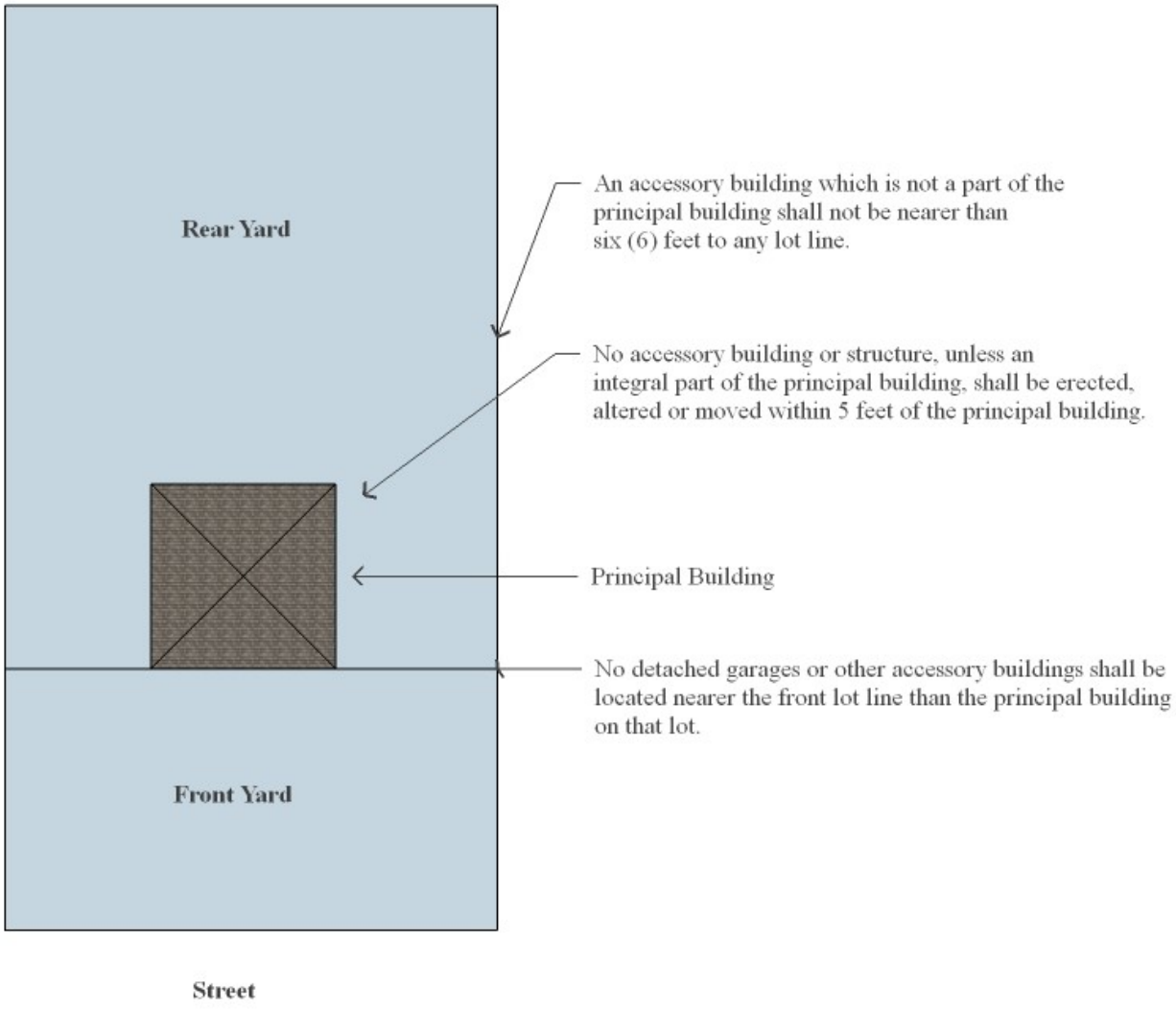
(6) All accessory buildings on through lots located in "R" districts shall require a conditional use permit.

(7) No basement, tent, trailer, or accessory building shall at any time be used as an occupied dwelling, except as provided for in Section 10.04.01 regarding recreational vehicles/campers.(Rep. & Recr. #353).

(8) No accessory building or structure, unless an integral part of the principal building, shall be erected, altered or moved within 5 feet of the principal building.

(9) (Repealed & Created #453) Attached accessory building is defined as a building joined to the principal building at one or more sides by a party or common wall, or walls. Said attached accessory building becomes part of the principal building and shall comply in all respects with the yard requirements of the principal building. Accessory buildings may be attached to the principal buildings by a breezeway, passageway, or similar means, however, they then become part of the principal building and shall comply in all respects with the yard requirements of the principal buildings, but shall still be considered as either a detached garage or accessory building in all other respects to this ordinance.

(10) Except as herein provided, the minimum yard requirements also apply to accessory buildings. However, accessory buildings not attached to the principal building may be located so as to be not closer than six (6) feet to the rear and side lot line.(Rep. & Recr. #325)




(10) When accessory buildings for garage and incidental storage purposes are constructed simultaneously on 2 or more contiguous lots, there may be 1 or 2 walls shared in common between 2 or more buildings, provided that such wall or walls are centered over the common side or rear lot lines.

(11) A principal building that does not have an attached garage may have a private detached garage as follows:

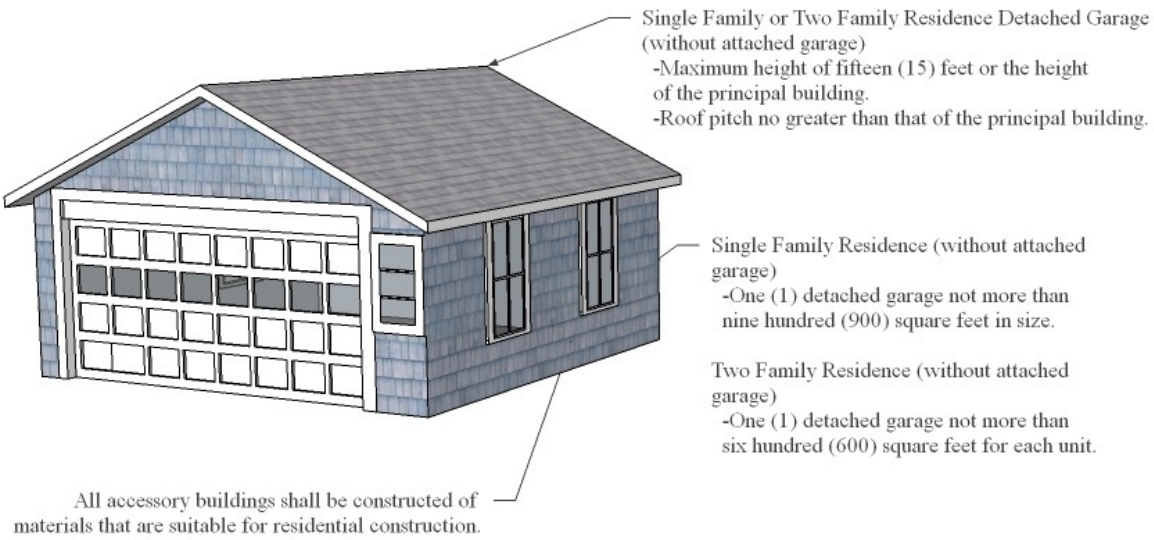
(a) (Repealed & Created #453) Single Family Residence - One (1) detached garage not more than nine hundred (900) square feet in size, with a maximum height of fifteen (15) feet or the height of the principal building, and a roof pitch no greater than that of the principal building.

(b) (Repealed & Created #453) Two Family Residence - One (1) detached garage not more than six hundred (600) square feet for each unit, with a maximum height of fifteen (15) feet or the height of the principal building, and a roof pitch no greater than that of the principal building.

(c) (a) and (b) above are in addition to the small two hundred sixteen (216) square foot accessory building allowed in 12.08.02 (3) of this Municipal Code.

(12) All accessory buildings shall be constructed of materials that are suitable for residential construction.(Rep. & Recr. #325)

(13) An accessory building that is to be placed on a lot that was subdivided, redivided or added to the lot on which the principal building is located, shall require a conditional use permit.(Cr. #337)



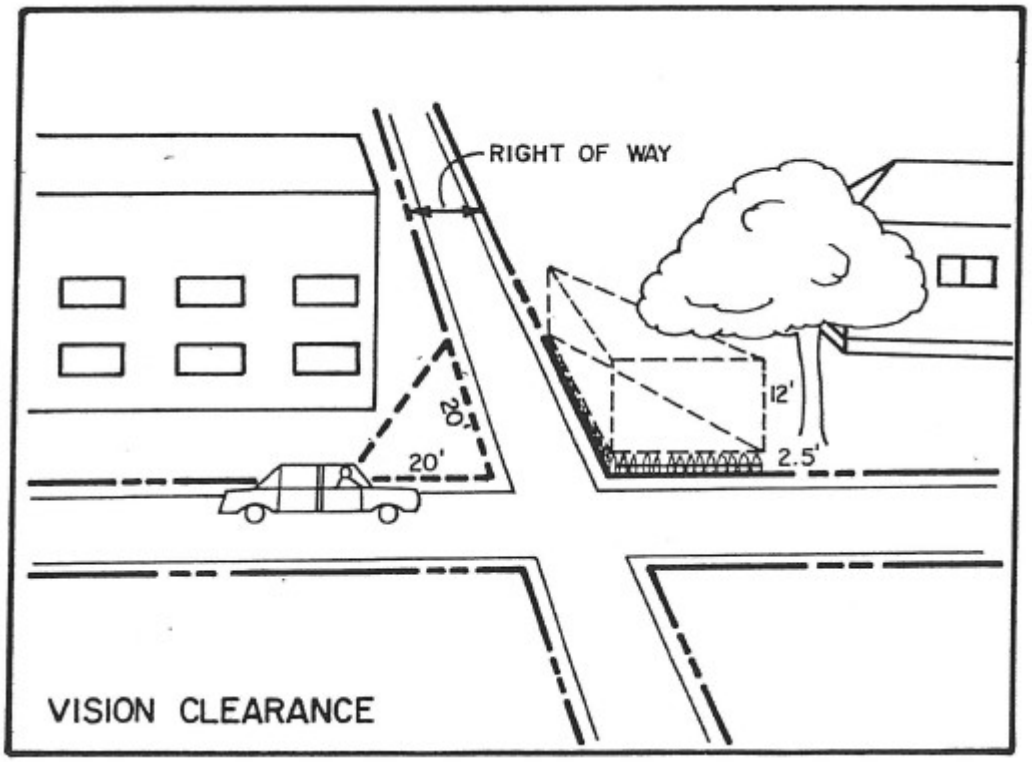

12.08.03 **Vision Clearance at Corners.**

(1) There shall be a "vision clearance triangle" in each segment of land at each intersection of 2 or more streets or streets with railroads. Such vision clearance triangle shall be bounded by the street or railroad right-of-way lines and a "vision clearance setback line" connecting points on each right-of-way which are located a distance of 20 feet, or the minimum setback distance, back from the intersection of the right-of-way lines. No fence, wall, hedge, or other structure, or planting, or other obstruction, shall be erected, placed or maintained in excess of 30 inches in height except one post or tree trunk not to exceed 4 inches in diameter above 30 inches, or

below 12 feet above the sidewalk line, at the point where the vision clearance setback line meets the right-of-way line; if there is no sidewalk, the City shall determine what the elevation of the sidewalk should be, or if a railroad, the elevation shall be the top of the rail directly opposite this point

**NOTE:** Vision Clearance Triangles are on private land; their requirements are in addition to the general requirement that no building, structure, awning, sign or natural growth shall be permitted within the public right-of-way, except as authorized by other ordinances or special permits from the City Council.

(2) In any district, no outdoor advertising sign or structure or tree shall protrude over any street so as to create confusion around or otherwise interfere with traffic signs and signals.




12.08.04 **Essential Services (Public Utilities).**

(1) Essential services shall be permitted as authorized and regulated by State law and local ordinances.

(2) The location of any facility shall be in the best interest of public convenience and welfare. All locations of proposed facilities shall be approved by the City Plan Commission and the City Council.

12.08.05 **Annexed Territory.** Prior to annexing new territory, the City Plan Commission shall undertake a study to determine the proper use of the area to be

annexed. The area annexed shall be placed in the use district as determined from the study approved by the Plan Commission and approved by the City Council.

12.08.06 **Farming Operations.** All farms currently in existence will be permitted to continue operation subject to the following conditions:

(1) Agriculture uses are a permitted use in the district in which they are located except any change in the current agricultural use, other than crops or pasture, requires a conditional use permit.

(2) Limited sales of products produced may be conducted on the premises from a roadside stand but such stand shall not exceed 12 feet in height or 500 square feet in floor area, and no portion of any such stand shall be located or erected nearer than 50 feet from any street line. The owner of any roadside stand may be required to apply for a special use permit if the City Council considers it necessary to protect the public health, safety or general welfare.

12.08.07 **Fill and Excavation.**

(1) Any lot or parcel upon which 400 cubic yards or more of fill is to be deposited shall require a permit. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land, and as conditions thereof shall regulate the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, controls of vehicular ingress and egress, and for control of material dispersed from wind or hauling of material to or from the site.

(2) The extraction of sand, gravel or other material from the land in the amount of 400 cubic yards or more and removal thereof from the site shall be permitted only upon issuance of a special use permit. Such permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted and the route of trucks moving to and from the sites.

(3) Fill of any kind or quantity shall not be placed on any lot and left for a period of 6 months unless it is leveled to make the surface suitable for mowing with a farm tractor.

(4) The provisions of this section shall not be construed to prohibit excavation, filling, or grading that is incidental to the construction or alteration of a building for which a building permit has been granted.

12.08.08 **Soil Processing.** The operation of processing sand, gravel, or other material mined from the land shall be permitted only by special use permit. Such special use permit shall include a site plan where the processing is to be done, showing the location of the plant, disposal of water, route of trucks moving to and from the site in removing processed material from the site, and such permit shall be granted for a specified period.

12.08.09 **Unsightly or Unsanitary Storage.** No manure, rubbish, salvage material or miscellaneous refuse may be stored in the open within any residential district when the same may be construed as a menace to the public health or safety or may fairly be held to have a depressing influence upon property values in the neighborhood. Regular salvage and junk yards shall be adequately enclosed with a fence and a planting screen shall be required to hide the unsightly storage. Planting screen shall be of thick growing plants such as Arbor Vitae (Thuja Occidentals).

12.08.10 **Relocated Structures.** Before any house or other structure is moved onto a vacant lot, a special use permit must be secured. The Planning Commission shall report to the Council whether the structure will be compatible with other development in the area. If the Council concurs with the decision of the Planning Commission that a structure would substantially depreciate the property values of the neighborhood of the area into which it is to be moved, the Council may withhold issuance of a permit for such relocation. The Building Inspector shall submit a report concerning structural soundness and improvements that should be made if the building is relocated. The applicant shall submit photographs taken from 2 or more angles of the structure to be moved and photos of the lot on which the structure is to be located together with adjacent lots and structures. These requirements do not apply to construction sheds or other temporary structures to be located on a lot for 18 months or less.

12.08.11 **Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

12.08.12 **Platting.** All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land planning. Any lot or lots of 3 acres or less created by any means for purposes of erecting a structure must be as approved by the City Council. The plan for such subdivision shall be reviewed by the Planning Commission which shall submit a report to the Council.

12.08.13 **Dwelling Units.** No cellar, basement of unfinished home, garage, tent, trailer or accessory building shall at any time be used as a dwelling unit except mobile homes located in an approved mobile home park.

12.08.14 **Street Frontage Required.** No lot shall contain any building used as a dwelling unless it abuts at least 80 feet on a public street.

12.08.15 **Rezoning.** Rezoning for any individual business or industry shall not be permitted unless it is an extension of an existing Commercial or Industrial District or designed to be a part of a larger, integrated and planned business or industrial development area as designated on the Comprehensive Development Plan.

12.08.16 **Planned Unit Development.** The purpose of this section is to establish provisions for the granting of a conditional use permit to provide for a planned development project wherein there is more than one principal building or land use per lot, and with adequate controls to protect adjacent development and insure high standards of

development in accordance with an integrated design and coordinated physical plan which is approximately located and in accordance with the following conditions. It is also the intent of this section to provide more flexible means to permit construction according to changing trends, techniques, and materials in the process of urban development, and shall be applicable to all zone classifications.

(1) A complete site plan of the planned development project shall be submitted, which plan shall show proposed location of all buildings, parking areas, drives, lot lines, landscaped areas and other features and shall be subject to approval of the Council. A pre-application meeting with city staff is required before Planned Unit Development applications are accepted.

(2) The Council shall refer such plan to the Planning Commission for review and recommendations and such additional conditions as the Council may direct to protect the general welfare may be imposed.

(3) Uses may include only those uses generally considered associated with the general land use category shown for the area on the official comprehensive plan land use of New Holstein.

(4) All other development regulations not specified in the "Planned Unit Development" section or specified as a condition to the conditional use permit, shall apply as regulated in the zoning district in which the structure or use would be placed if the land were to be placed in a zoning district classification to permit said use or structure.

(5) It is the intent of this section, Planned Unit Development, to provide a means to allow substantial variances from the provisions of this Chapter, including uses, setbacks, height and similar regulations but not including parking requirements, off-street loading, necessary screening or similar regulations. Variances may be granted for Planned Unit Developments provided:

(a) Certain regulations contained in this Chapter do not realistically apply to the proposed development due to the unique nature of the proposed development.

(b) The variances, if granted, would be fully consistent with the general intent and purpose of this Chapter.

(c) The Planned Unit Development would produce urban development and an urban environment of equal or superior quality to that which would result from strict adherence to the provisions of this Chapter.

(d) The variances will not constitute a threat to the property values, safety, health, or general welfare of the owners or occupants of adjacent or nearby land nor be detrimental to the health, safety, or general welfare of the people of New Holstein.

(e) The proposed development is of such a unique nature as to require consideration under conditions of a Planned Unit Development.

(f) It shall be determined that the variances are required for reasonable and practicable physical development according to a plan and are not required solely on the basis of financial considerations.

(g) Assure that growth is planned and accomplished with the City's goals.

12.08.17 **Permitted Uses.** Except as provided for, no building or premises may be devoted to uses other than those indicated as permitted uses according to provisions of this Chapter.

12.08.18 **Bulk Storage (Liquid).** All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the City Council may have assurance that fire, explosion or water contamination hazards are not present that would be detrimental to the public health, safety, and general welfare. **Conditional use permits shall not be granted for any use associated with the bulk storage of flammable liquids or hazardous materials in any residence district designated "R-1", "R-2" or "R-3".** All above ground liquid storage tanks shall secure a conditional use permit. **All above ground liquid storage tanks must comply with the State of Wisconsin Administrative Code.** Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operation. (Rep. and Rec. #277, 609)

12.08.20 (Repealed & Created #436)**Home Occupations.** The purpose of the home occupation provisions is to permit the conduct of home occupations which are compatible with the neighborhoods in which they are located.

Home occupations are a permitted accessory use in all residential districts and are subject to the requirements of the district in which the use is located, in addition to the following:

(1) Only the members of the immediate family occupying the dwelling shall be engaged in the home occupations.

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

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

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

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

(6) No sign exceeding two (2) square feet in area indicating the type of occupation carried on is used; such sign shall not be illuminated.

**Examples of Home Occupations.** The following are examples of uses which can often be conducted within the limits of this Chapter. Uses listed in this paragraph do not automatically qualify as a home occupation nor does this listing limit the uses which may qualify as home occupations. Handicraft, dressmaking, laundry, preserving, accountant, artist, author, consultant, individual tutoring, millinery, realtor.

**Prohibited Uses.** The following uses have a tendency to increase beyond the provisions for home occupations and thereby impair the character of residential areas. Therefore the uses specified shall not be permitted as accessory uses in residential districts: Major auto repair, medical offices, dental offices, painting of vehicles or boats, barber shop, dance instruction, television repair. (Rep. & Recr. #436),

**Interpretation of Home Occupations.** No building or occupancy permit shall be issued for any home occupation except as enumerated and then only until and unless the location of such use shall have been approved by the Board of Appeals.

12.08.21 **Exterior Storage in Residential Districts.** All materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks. Boats and unoccupied trailers, less than 20 feet in length, are permissible if stored in the rear yard more than 5 feet from any property line. Existing uses shall comply with this provision within 12 months following enactment of this Chapter.

12.08.22 **Refuse in all Districts.** All waste material, debris, refuse, unused construction materials or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and noxious weeds. Existing uses shall comply with this provision within 6 months following enactment of this Chapter.

12.08.23 **Off Street Loading.** In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.

12.08.24 **Traffic Control.** The traffic generated by any use shall be channelized and controlled in a manner that will avoid: congestion on the public streets; traffic hazards; and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing into streets. No access drive or curb cut shall be located within 25 feet of any 2 intersecting right-of-way lines and shall not encroach on the full radius of corner curbing.

12.08.25 **Drainage.** No land shall be developed and no use shall be permitted that results in water run-off causing flooding or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, watercourse, ponding area or other public facility.

12.08.26 **Explosives.** No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except such as are specifically licensed by the Council.

12.08.27 **Radiation and Electrical Emissions.** No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbances.

12.08.28 **Landscaping.** In all districts except "I-2" Heavy Industrial District: All developed uses shall provide a landscaped yard along all streets. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot. Such yard shall have a depth of at least 15 feet.

12.08.29 **Maintenance.** In all districts: All structures, signs, required landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

12.08.30 **Industrial Standards.** Within any "I" Industrial District, no structure or premises shall fail to comply with the following performance standards:

(1) **Vibrations.** Any vibration discernible (beyond property line) to the human sense of feeling for 3 minutes or more duration in any one hour, and any vibration producing an acceleration of more than 0.1 grains or resulting in any combination of amplitudes and frequencies beyond the safe range of Table 7, United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting," on any structure.

(2) **Screening.** Any industrial use abutting to a "R" district shall provide and maintain a wall, fence or planting so as to screen and reduce the noise and dust between the 2 uses and to inhibit eye level vision between the residential and industrial areas.

(3) **Glare and Heat.** Any operation producing intense glare or heat shall be performed within an enclosure so as not to be perceptible at the property line.

(4) **Industrial Waste Material.** Industrial waste material shall not be washed into the public storm sewer system nor the sanitary system without first having received approval from the City Council. If said approval is not granted, a method of disposal shall be devised which will not require additional land for continual operation and will not cause a detrimental effect to the adjacent land. Should the industrial waste be of a solid form rather than fluid, the storage area shall be so located and fenced as to be removed from public view, and a maximum amount of accumulation determined along with a satisfactory method of disposal.

12.08.31 **Fences.** A fence is a permitted accessory use in any district. Before it is constructed, installed, or any part of same put in place, an application with plans and specification (height, location, and type of fence proposed) attached shall have been filed with the Building Inspector and he/she shall have approved and granted a permit. Fences shall comply with requirements set forth in the Municipal Code.

(1) Definition. A fence shall be defined for the purpose of this ordinance as any type of materials or structures that delineate the boundaries between two parcels of land, or that delineate and describe an area to be contained, even though persons might pass through the same, meaning to broadly establish as an example of a fence such things as a moat, a retaining wall, a line of posts - even without connection to each other but set in a line to delineate a certain area for the landowner or lessee's purposes. Other items are such as a split rail, guard posts, any fence described in this ordinance, or any type of man-made marking of an area regardless of whether it causes a restraint of persons, animals, or other items passing from one owner's or lessee's property to the other.

(a) **Types of Fences.**

Fence, Open. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than fifty (50%) percent of their surface area open for free passage of light and air. Examples of such fences include chain link, picket, and rail fences.

Fence Ornamental. A fence whose only purpose is to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner of lot line; frame a driveway, walkway, or planting bed. Ornamental fences are those with more than fifty (50%) percent of their surface area open for free passage of light and air. Ornamental fences are often of the picket, rail, or wrought iron type.

Fence Screening. A structure of bricks, planks, woven wire with screening inserts, or similar material erected as an enclosure, barrier, or boundary. A screening fence is erected for the purpose of preventing a view of equipment, materials, or products; may shield undesirable views; or may serve as a barrier to prohibit entry to a property at a given location. A screening fence may or may not form a complete enclosure.

Fence, Security. A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier, or boundary. A security fence is erected for the purpose of preventing entry to a property by unauthorized persons and protecting equipment, materials, or products contained within the enclosure. A security fence may also be erected to screen equipment, materials, or products from unauthorized view.

Fence, Solid. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with fifty (50%) or less of their surface area open for free passage of light and air and designed to conceal the activities conducted behind them. Examples of such

fences are stockade, board-on-board, board and batten, basket weave, louvered fences, and chain link with screening inserts.

(b) **Prohibited Types of Fences.**

[1] Barbed wire fences and electric fences are prohibited in the City of New Holstein, except in zoned Industrial and Agricultural Districts.

[2] Snow fencing of wire-bound lath or similar construction shall not be used as a permanent fence of any kind.

[3] No fence shall have sharp or pointed pickets dangerous to life or limb. Hedges shall be trimmed or confined to the property on which they are planted. No fence consisting in whole or in part of any material dangerous to life and limb shall be erected along or within four (4) feet of any public streets, sidewalks, or alleys in the City of New Holstein.

(2) **Fence Height and Placement Limits.** Fences will be set back a minimum of eighteen (18) inches from the lot line to allow for maintenance by their owners.

Fence height regulations established shall not prevent an increase in height of two (2) inches or less to allow for clearance between fencing material and the ground below to prevent decay or corrosion.

(a) **Fences in Side and Rear Yards, Outside Setback Areas.**

[1] No fence erected shall exceed six (6) feet in height. No fence shall be erected within four (4) feet of alley right-of-way lines.

[2] A fence not exceeding eight (8) feet in height may be erected, constructed or maintained on any premises within a residential district provided that such fence is erected or constructed along that portion of the lot lying adjacent or abutting a non-residential district, subject to the Common Council's approval.

[3] A fence not exceeding eight (8) feet in height and a minimum of four (4) feet in height shall be erected for the purpose of enclosing a swimming pool. The bottom shall be a maximum of two (2) inches above the existing ground elevation, and a locking gate shall be provided. Fences for swimming pools, as required by Section 11.07 of the Municipal Code shall also meet standards established in that Section of the Code.

[4] Except as allowed in [1], [2], and [3] above, all other fences exceeding six (6) feet in height shall require a permit from the Building Inspector, subject to the Common Council's approval.

(b) **Corner Lots and Setback Areas Adjacent to Street and Alley Right-of-Way.**

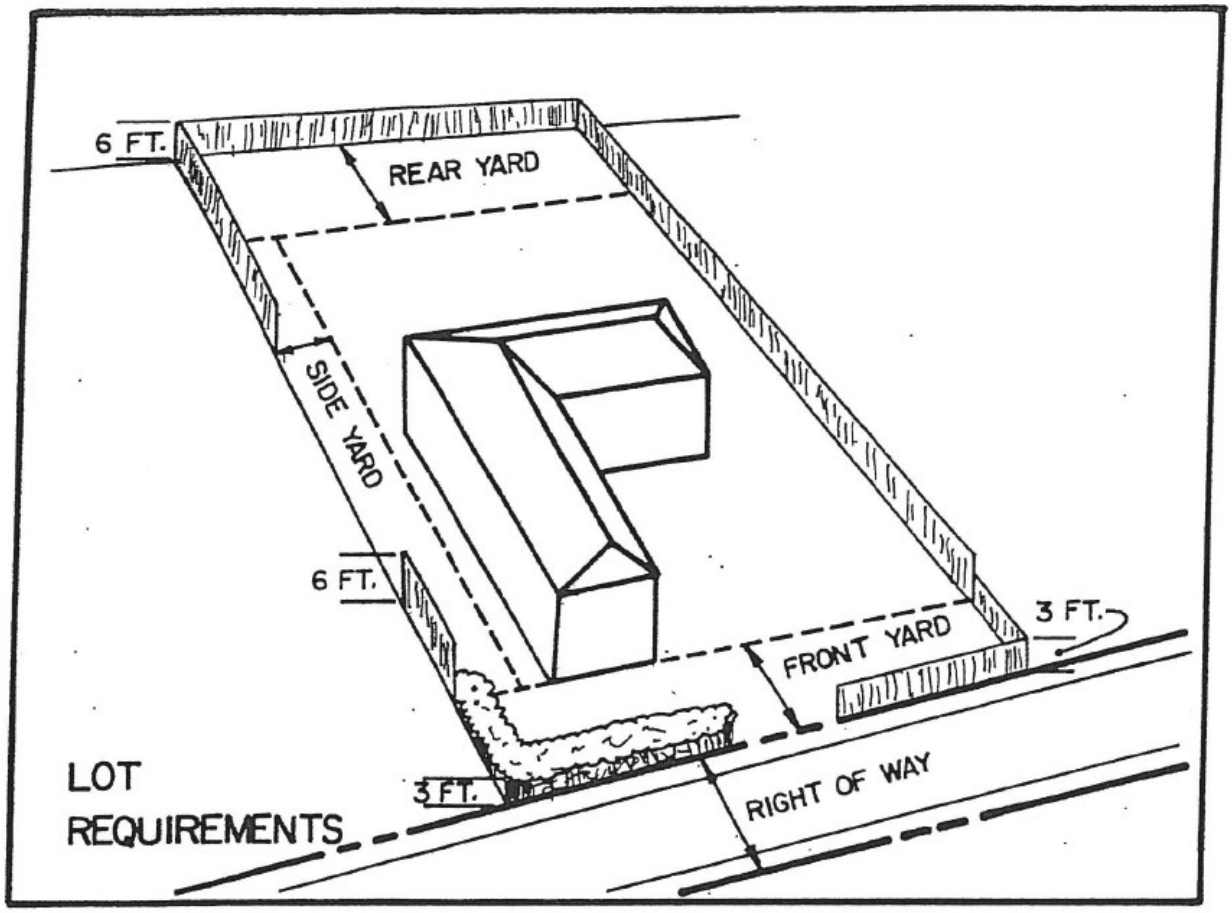
[1] No fence, shrub, tree, or hedge shall be placed or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the sidewalk grades of the intersecting streets and alleys and within twenty (20) feet of the intersecting right-of-way lines. In other words, no fence exceeding 2 1/2 feet in height shall be allowed from the front of the building/home to the front lot line, or from the side of the building/home to the side lot line. All other plants shall not exceed two and one-half (2 1/2) feet in this area.

[2] All other fences adjacent to street and alley right-of ways shall not exceed three (3) feet in height. If ninety (90%) percent open, a fence in this area may be four (4) feet in height.

(3) Existing Fences. Any fence which exists at the time of the passage of this Code, but does not conform with the provisions thereof, shall not be altered or enlarged without making the entire fence conform with the provisions of this section.

(4) Fence Maintenance. Fences must be maintained so as not to be unsightly or present harmful health or safety conditions. Within residential districts, the finished side of any fence shall be oriented towards the adjoining property.

(5) Joint Fences. Nothing in this Ordinance shall be construed to prevent, and it is the consensus of this Ordinance to encourage property owners or lessees with adjoining properties to jointly make an Agreement, in writing, for construction or maintenance of a fence located either exactly on the property line or, for the purpose of avoiding chance of adverse possession or otherwise, or other reasonable legal reasons, on one party's land or the other. The joint Agreement shall be written and signed by all property owners to the Agreement, and the signatures must be notarized and the Agreement shall be recorded in the Office of the Register of Deeds for Calumet County so as to give any subsequent purchaser notice of said Agreement. Such Agreement should be attached with the specifications to the joint permit application. (Rep. and Recr. #273)




12.08.32 **Signs.**

(1) Intent: This ordinance regulates all signs that are visible from the public. Depending on their size, numbers, and character, signs may attract or repel visitors, affect the visual quality enjoyed daily by residents, affect the safety of vehicular traffic, and define the character of the area. Thus aesthetic considerations impact economic values as well as public health, safety, and welfare. Therefore this ordinance sets standards for the following purposes:

(a) Maintain and enhance the visual quality of the community.
(b) Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and of directional or warning signs.
(c) Protect and enhance economic viability by assuring that the city will be a visually pleasant place to visit or live.
(d) Protect property values and private/public investments in property.
(e) Avoid personal injury and property damage from structurally unsafe signs.
(f) Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.
(g) Allow for expression by signage subject to reasonable regulation.

Signs are a permitted use in all districts subject to the following regulations:

(2) **General.**

(a) Right of Way. Private signs are prohibited within the public right of way or easements except that the City Council may grant a conditional use permit to locate signs and decorations on or within the right of way for a specified time not to exceed 60 days. Extensions upon review. No obstruction of visibility is permitted.

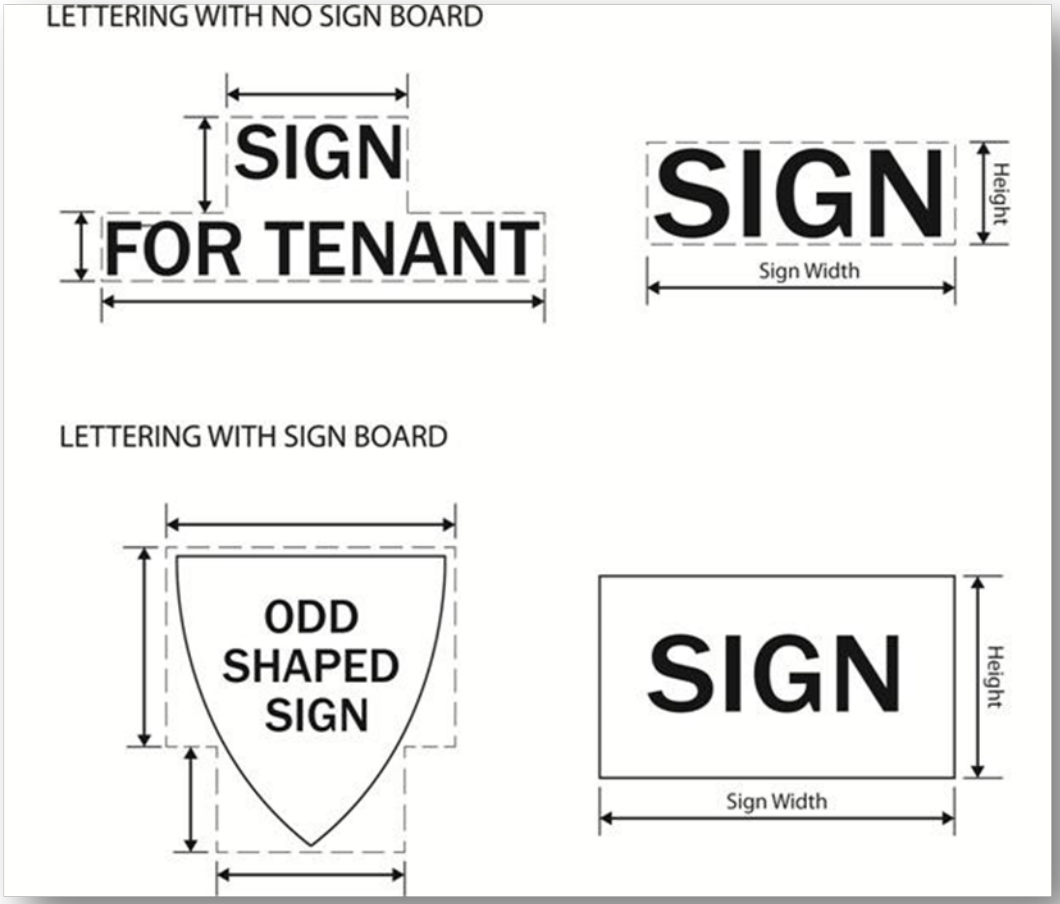
(b) Building materials. All signs must be constructed of quality, industry accepted, sign materials.

(c) Landscaping. All permanent freestanding signs shall incorporate a landscaped base.

(d) Maintenance. Signs shall be kept in good maintenance. Owners of faded, damaged or signs in disrepair will be contacted and repairs will be required within 15 calendar days.

(e) Lighting. Signs that have external illumination, whether the lighting is mounted above or below the sign face or panel, shall have lighting fixtures or luminaires that are fully shielded.

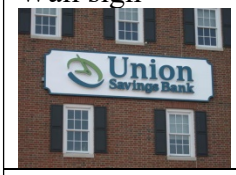
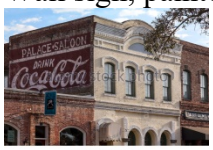
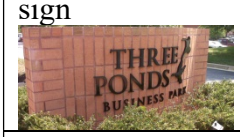
(f) Measurement of sign area. Sign measurement area shall be calculated by the edge of the sign board/back. Where signage does not have a sign board/back or for odd shaped signs, the area of lettering and/or symbols shall be calculated. The applicant shall submit dimensions as part of the sign permit process.

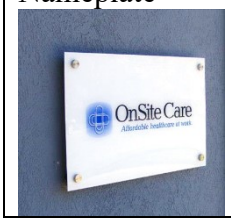



**(3) Permanent Signs (permit required).**
A sign permit is required for all permanent signs. A total number of signs per property are regulated. See sign size and location table for dimension requirements.

(a)Total Permanent signs allowed per street frontage (excluding information signs): 5

| Sign type | Residential | Commercial | Industrial |
|---|---|---|---|
| **Building signs** | | | |
| Awning/Canopy sign  | N/A | Four signs per property (this only limits number of signs on structure and not number of awnings and canopies). | Four signs per property (this only limits number of signs on structure and not number of awnings and canopies). |
| Marquee | N/A | One per building | One per building |

| | | | |
|---|---|---|---|
|  | | | |
| Projecting sign  | N/A | One per tenant | One per tenant |
| Wall sign  | N/A | 5% of wall area sign is attached to. | 5% of wall area sign is attached to. |
| Wall sign, painted  | N/A | Allowed on one wall without windows | Allowed on one wall without windows |
| **Freestanding signs** | | | |
| Electronic Message Center  | N/A | One per property | One per property |
| Monument  | N/A | One per property | One per property |
| Neighborhood/Business park sign  | One per neighborhood entrance | One per business park entrance | One per business park entrance |
| Pole/pylon sign  | N/A | One per property | One per property |
| **Information signs** | | | |
| Directory | One per street access for multifamily | One per street access | One per street access |

| | | | |
|---|---|---|---|
|   | buildings | | |
| Nameplate   | One per multifamily building | One per tenant | One per tenant |

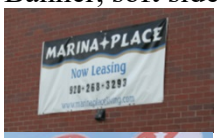
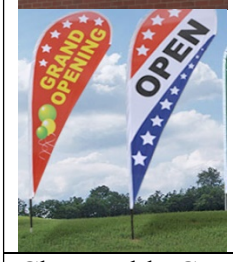
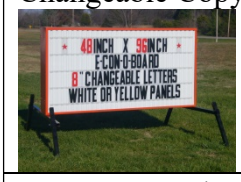
(b) Permanent sign definition, size (per face) and location requirements

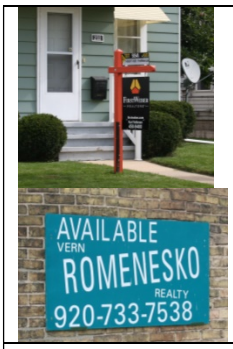
| Sign type | Residential | Commercial | Industrial |
|---|---|---|---|
| **Building signs** | | | |
| **Awning/Canopy.** A sign on a roof like cover extending over or in front of a place (as over the deck or in front of a door or window) as a shelter. | N/A | Nine square feet of awning canopy can be signed. The lowest part of the awning must be at least 80 inches above the sidewalk. | Nine square feet of awning canopy can be signed. The lowest part of the awning must be at least 80 inches above the sidewalk. |
| **Marquee.** A sign that is attached to, in any manner, or made a part of any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather. | N/A | 32 square feet per face. The lowest part of the awning must be at least 80 inches above the sidewalk. | 32 square feet per face. The lowest part of the awning must be at least 80 inches above the sidewalk. |
| **Projecting sign.** A Sign affixed to any part of a building or structure which extends beyond the building or structure. | N/A | 20 square feet per face. Cannot extend more than four feet over the right of way. They must be at least 10 feet above the sidewalk or 15 feet above a driveway or alley. | 20 square feet per face. Cannot extend more than four feet over the right of way. They must be at least 10 feet above the sidewalk or 15 feet above a driveway or alley. |

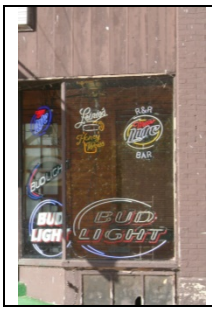
| | | | |
|---|---|---|---|
| **Wall sign.** A sign attached to, placed against, or supported by the exterior surface of any building. | N/A | 5% of wall area sign is attached to. | 5% of wall area sign is attached to. |
| **Wall sign, painted.** A sign applied to a building wall with paint and which has no sign structure. | N/A | 5% of wall area sign is attached to. | 5% of wall area sign is attached to. |
| **Freestanding signs** | | | |
| **Electronic Message Center.** A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. | N/A | 24 square feet | 24 square feet |
| **Monument sign.** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. | N/A | 32 square feet. Maximum 2 foot surrounds. Sign base may not exceed 3 feet of sign face in any direction. | 32 square feet. Maximum 2 foot surrounds. Sign base may not exceed 3 feet of sign face in any direction. |
| **Neighborhood/Business park sign.** A monument sign displaying the name of the neighborhood or business park. | 32 square feet | 32 square feet. Maximum 2 foot surrounds. Sign base may not exceed 3 feet of sign face in any direction. | 32 square feet. Maximum 2 foot surrounds. Sign base may not exceed 3 feet of sign face in any direction. |
| **Pole/pylon sign.** An elevated sign supported by poles or pylons that are wrapped with a stone or professional building material. | N/A | 25’ height, 50 square feet | 25’ height, 50 square feet |
| **Information signs** | | | |
| **Directory.** A sign, other than an identification sign, listing the names, uses, or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide on-site directions. | Three square feet | Three square feet | Three square feet |
| **Nameplate.** A sign indicating the name and address of a building; or the | Two square feet | Two square feet | Two square feet |

| | | | |
|---|---|---|---|
| name of an occupant thereof, and the practice of a permitted occupation therein. | | | |

**(4) Temporary Signs not requiring a permit.**
(a) Temporary signs without permit required. See sign size and location table for dimension requirements.

| Sign type | Residential | Commercial | Industrial |
|---|---|---|---|
| **Signs not requiring a permit** | | | |
| Construction sign   | Only during the duration of work. Must be removed within five calendar days of work ending. | Only during the duration of work. Must be removed within five calendar days of work ending. | Only during the duration of work. Must be removed within five calendar days of work ending. |
| Banner, soft sided signs.     | N/A | Two per property. 30 days maximum, four times a year. | Two per property. 30 days maximum, four times a year. |
| Changeable Copy sign   | N/A | One per property. 30 days maximum, two times a year. | One per property. 30 days maximum, two times a year. |
| Garage or yard sale sign   | One per property. Allowed four calendar days before event and one calendar day after. | N/A | N/A |
| Government sign | As needed. | As needed. | As needed. |
| Political sign | See state of Wisconsin political signs requirements | | |
| Real estate | One per property | One per property | One per property |

| | | | |
|---|---|---|---|
|  | | | |
| Residential special announcement (birth, graduation, etc.)<br> | One per property | One per property | One per property |
| Sidewalk sign<br> | N/A | One per property. During business hours only. | One per property. During business hours only. |
| Warning signs<br><br> | As needed. | As needed. | As needed. |
| Window signs<br> | May not exceed 40% of window area. | May not exceed 40% of window area. | May not exceed 40% of window area. |

| | | | |
|---|---|---|---|
|   | | | |

(b)Temporary sign without permit required definition, size (per face) and location requirements

| Sign type | Residential | Commercial | Industrial |
|---|---|---|---|
| **Signs not requiring a permit** | | | |
| **Banner/soft sided sign.** A sign made of flexible materials and supported along one or more sides or at two or more corners by staples, tape, wires, ropes, strings, or other materials that are not fixed or rigid. | 24 square feet. | 24 square feet. | 24 square feet. |
| **Changeable Copy sign.** Signs that are readily transportable and can easily be relocated to another location or temporarily set-up and removed from a site. It is designed to allow the message or advertising to be changed frequently and easily. | N/A | 48 square feet. | 48 square feet. |
| **Construction sign.** Signs announcing new buildings or projects or advertising the company doing the work. | 32 square feet. | 32 square feet. | 32 square feet. |
| **Garage or yard sale signs.** Signs advertising a residential garage or yard sale. | Four square feet. | N/A | N/A |
| **Governmental sign.** A sign erected and maintained by or on behalf of the United States, the state, the county, or the city for the purpose of regulating traffic or for civic purposes. | As needed. | As needed. | As needed. |

| | | | |
|---|---|---|---|
| **Political.** A temporary sign announcing or supporting candidates or issues in connection with any national, state, or local election. | See WI Statute Trans 201.16 Political signs | | |
| **Residential special announcement.** Sign announcing special event (birth, graduation, etc.) | Three square feet. | Three square feet. | Three square feet. |
| **Real estate.** A sign announcing the sale or rental of the property upon which the sign is located. | Six square feet. | 32 square feet. | 32 square feet. |
| **Sidewalk sign.** A sign, which may be an A-frame or sandwich board type sign, placed on the sidewalk. | N/A | 15 square feet. Cannot interfere with pedestrian traffic. | 15 square feet. Cannot interfere with pedestrian traffic. |
| **Warning signs.** A sign limited to a message of warning, danger, or caution. | One square foot. | Three square feet. | Three square feet. |
| **Window signs.** Signs and decals placed on the interior of the window. | May not exceed 40% of window area. | May not exceed 40% of window area. | May not exceed 40% of window area. |

**(5) Prohibited Signs.**

The following signs are expressly prohibited, unless otherwise stated in these regulations.

| **Sign type** |
|---|
| **Prohibited signs** |
| **Abandoned sign.** Any sign that is not well maintained for a consecutive 120 calendar day period and/or that is not fully supported by the structure designed to support the sign for a consecutive 120 calendar day period. |
| **Absence of permit.** Any sign requiring a permit for which a permit has not been issued. |
| **Air activated/inflatable signs.** Any sign that uses air to maintain that sign or cause movement of the sign. |
| **Billboards.** A sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located. |
| **Interference.** No sign may be erected that, by reason of position, shape or color, would interfere in any way with the proper functioning or purpose of a traffic sign or signal. |
| **Lighting.** Use of revolving beacons, beamed lights or similar device that would so distract automobile traffic as to constitute a safety hazard. |
| **Near street intersections.** There shall be no flashing or revolving sign in the front setback area or within 125 feet of a street intersection. No flashing or revolving signs are permitted in windows. |
| **Permanent Changeable Copy.** New permanent installations of permanent changeable copy signs are prohibited. |
| **Roof signs.** Signs attached to or supported by the roof of a building. |

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|---|
| **Safety hazards.** Any sign that because of its location, animation or other action is deemed to jeopardize public safety. |
| **Simulated traffic signs.** Any sign that is similar to, or, attempts to replicate traffic signs. |

**(6) Electronic Message Centers**

| **Electronic Message Centers** |
|---|
| **Requirements** |
| **Brightness.** The sign shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination. The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness. |
| **Movement.** Each message displayed on an electronic message center must be static or depicted for a minimum of 2 seconds. |
| **Residential location.** Electronic message centers located in residential areas must apply for and receive a conditional use permit. |
| **Sign.** Electronic message centers shall be allowed on monument and pylon signs only and are subject to all monument sign requirements of the applicable zoning district. |

(7) **Multi-tenant signs.**

(a) Wall signs. Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one (1) wall sign with a maximum of 20 square feet.

(b) Freestanding signs. Sites with multiple tenants must accommodate all tenants on one freestanding sign.

(8) P**ermit Required.** Except as otherwise provided in this Chapter, no signs shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit, and without being in conformity with the provisions of this Chapter. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the City of New Holstein. Qualifying charitable organizations will be exempt from the sign permit fee, but all other regulations still apply.

(a) Any person, firm, corporation or organization desiring to place, erect, alter or relocate a sign as herein defined, except an exempt sign, shall make application to the Building Inspector and shall provide in writing the following information;

1. The name, address and telephone number of the applicant.

2. The name, address and telephone number of the owner or owners of the premises upon which the sign is to be attached or erected.

3. The street number and street name or parcel number of the land upon which the sign is to be attached or erected.

4. A clear and legible scale drawing of the proposed sign and a map of the lot or parcel of land on which it is to be erected, showing the intended location on the site.

5. The basic materials to be used in the construction of the sign.

6. The name, address and telephone number of the owner/user of the sign if he or she is neither the applicant nor the owner of the premises on which the sign is to be attached or erected.

7. A description of all electrical equipment if the sign is to be lighted or illuminated.

8. If work is to be performed by a professional contractor, the name, address and telephone number of such contractor and a certificate giving proof of adequate insurance held by the contractor.

9. Such other information as the Building Inspector may require in order to indicate compliance with the Chapter and all other ordinances of the City of New Holstein.

10. If the sign permit is denied by the Building Inspector, he shall give written notice of the denial to the applicant, together with a brief statement of the reasons for denial. Such notice shall be within ten (10) working days of the application.

(9) E**xisting signs.** All signs permanently erected, put up, installed or constructed prior to January 1, 2016 which were in compliance with the regulations in effect immediately prior to that time and which are not in compliance with the provisions of these regulations shall be deemed a legal non-conforming sign. A legal non-conforming sign may remain in place until such a time as it is a) removed or structurally changed; b) damaged to the extent of more than 50 percent of its replacement value at the time of the damage; or, c) in a state of disrepair or is a hazard as determined by the Building Inspector. In the event of any of the above, the sign shall be removed or replaced with a sign conforming with these regulations, as amended.

12.08.33 **Off-Street Parking and Loading.**

(1) **Surfacing and Drainage.** Off-street parking and loading area shall be improved with a paved or concrete surface and parking spots shall be striped. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area by use of catch basins and storm sewers. No surface water shall be discharged onto adjoining property. These requirements shall also apply to open sales lots for cars, trucks and other equipment.

(2) **Location.** All accessory off-street parking facilities required herein shall be located as follows:

(a) Spaces accessory to one and 2 family dwellings on same lot as the principal use served.

(b) Spaces accessory to multiple family dwellings on the same lot as the principal use served or within 250 feet of the main entrance to the principal building served.

(c) Spaces accessory to uses located in a business or industrial district, within 800 feet of an entrance to the principal building served.

(d) There shall be no off-street parking space within 5 feet of any street right-of-way in business and industrial districts.

(3) **Access.** All off-street parking spaces shall have access off one or two driveways and not directly off the public street along the entire street frontage.

(4) **Signs.** Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this Chapter.

(5) **Lighting.** Lighting used to illuminate off-street parking shall have no direct source of light visible from a street or adjacent land.

(6) **Compact/electric cars.** These spaces shall be identified by pavement markings and by appropriate signage.

(7) **Bicycle parking.** Bicycle parking facilities shall be located in a clearly designated and locations within 50 feet of a main entrance.

(8) **Required Parking Spaces.**

| Use type | Requirements |
|---|---|
| **Residential uses** | |
| Duplex | Two spaces per dwelling unit |
| Multifamily dwellings | One space for each guest room plus one space for each three employees |
| Single-family | Two spaces per dwelling unit |
| **Non-residential uses** | |
| Churches, theaters, auditoriums, community centers and other places of public assembly | One space for each five seats |
| Clinics | Five spaces for every practitioner on the staff |
| Commercial and professional office buildings | One space for every 300 square feet of gross floor area |
| Hospitals | One space for each two beds |
| Industrial, manufacturing, warehouse and wholesale uses | One space for every two employees |

| | |
|---|---|
| Motels and Hotels | 1.5 spaces for each sleeping unit |
| Nursing and care homes | One space for every three rooms, plus one space for each staff member and employee |
| Restaurants, taverns, club, etc. | One space for every 100 square feet of gross floor area |
| Retail stores | One space for every 225 square feet of gross floor area |
| Schools | Public or private elementary and day care centers: Two spaces per classroom minimum.<br>Public or private high school: Five spaces per classroom minimum.<br>College, trade, and vocational: Ten spaces per classroom minimum. |
| Shopping center | 1 space for every 100 square feet of gross floor area |
| Other uses | City staff shall determine parking space requirements for any use not defined specifically in this table based on a comparable use from this table. |

(9) **Off-Street Loading.** The regulations and requirements set forth in this section shall apply to the required and non-required loading and unloading facilities in all the districts. If, in the application of the requirements of this section, a fractional number is obtained, one loading space shall be provided for a fraction of 1/2 or more and no loading space shall be required for a fraction of less than 1/2.

(a) **Location.** All loading berths shall be 25 feet or more from the intersection of 2 street right-of-way lines. Loading berths shall not occupy any yard requirement bordering a street.

(b) **Size.** Unless otherwise specified, the first berth required shall not be less than 12 feet in width and 50 feet in length. Additional berths shall not be less than 12 feet in width and 25 feet in length. All loading berths shall maintain a height of 14 feet or more.

(c) **Access.** Each loading berth shall be located within approximate means of access to a public street or alley in a manner which will least interfere with traffic.

(d) **Surfacing.** All loading berths and access ways shall be improved with a paved or concrete surface.

(e) **Accessory Uses.** Any area allocated as a required loading berth or access drive so as to comply with the terms of this Chapter, shall not be used for the storage of

goods, inoperable vehicles, nor be included as a part of the area necessary to meet the off-street parking area.

(f) **Number of Required Loading Berths.**

1. **Auditorium, Convention Hall, Public Buildings, Hospitals, Schools, Hotels, Sports Arena.** At least one loading berth 25 feet in length for each building having more than 1,000 square feet and less than 10,000 square feet of floor area. For those buildings having 10,001 square feet of floor space to 100,000 square feet of floor space or fraction thereof, one additional loading berth 50 feet in length is required.

2. **Retail Sales and Service Stores, Offices.** At least one loading berth 25 feet in length for each building having 6,000 square feet of floor area or more plus one additional loading berth 50 feet in length for each 25,000 square feet of floor area up to 100,000 square feet.

3. **Manufacturing, Fabrication, Processing and Warehousing.** At least one loading berth 25 feet in length for each building having 3,000 square feet or fraction thereof plus one loading berth 50 feet in length for each 25,000 square feet of floor area up to 100,000 square feet plus one loading berth for each 50,000 square feet of floor area over the first 100,000 square feet of floor area. The operator of the business shall have the option to declare the length of the berths required for buildings over 100,000 square feet of floor area, except 1/2 or more of the total number of berths required shall be 50 feet in length.

4. **Other.** There shall be provided adequate off-street loading space in connection with any structure which requires receipt or distribution of materials by vehicles.

(g) **Uses Not Specifically Noted Above Including Public Uses.** Parking space requirements shall be determined by the Council upon advice from the Planning Commission.

(10) **Joint Facilities.** Required parking facilities serving 2 or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall be not less than the sum of the separate requirements for each use, during any peak hour parking period when the parking facility is utilized at the same time by 2 or more uses. Conditions required for joint use:

(a) The proposed joint parking space is within 500 feet of the use it will serve.

(b) The applicant shall show that there is no substantial conflict in the principal operation hours of the 2 buildings or uses for which joint use of off-street parking facilities is proposed.

(c) A properly drawn legal instrument, approved by the City Council, executed by the parties concerned, for the joint use of off-street parking facilities shall be filed

with the City Clerk. Said instrument may be a 3 part agreement including the City and all private parties involved.

12.08.34 **Exceptions and Modifications.**

(1) **Height Limitations.** Height limitations as set forth elsewhere in this Chapter may be increased by 50% when applied to the following:

(a) Church Spires
(b) Belfries
(c) Water Towers
(d) Flagpoles
(e) Smoke Stacks
(f) Cooling Towers
(g) Elevators

Height in excess of those allowed under this section shall be permitted only by a conditional use permit granted by resolution of the City Council determining that such structure would not adversely affect the adjoining property.

(2) **Front Setbacks.** Where adjoining structures existing at the time of adoption of this Chapter have a different setback from that required, the Planning Commission shall determine the necessary front yard setback in such cases. However, in no case shall a building be required to setback more than 60 feet, except where an Industrial District is adjacent to a Residential District.

(3) **Rear Yards.** In any "C" Commercial or "I" Industrial District, rear yard requirements on properties abutting railroad trackage may be waived.

(4) **Transitional Uses in "R" Districts.** In any "R-A", "R-1", "R-2" or "R-3" Residential District, a transitional use is permitted on a lot the side lot line of which abuts a lot in any "C" Commercial or "I" Industrial District. The permitted transitional use for any such lot in a "R-A" District is any use permitted in the "R-1" District; for any such lot in an "R-1" District, any use permitted in the "R-2" District; for any such lot in an "R-2" District, any use permitted in the "R-3" District. However, any transitional use authorized under this subsection shall not extend more than one lot of record nor more than 75 feet into an abutting lot, whichever is less.

(5) **Lot of Record.** Except as herein provided, in any residential district where the owner of a lot at the time of the adoption of this Code or his successor in title thereto does not own sufficient land to enable him to conform to the minimum lot area and/or frontage requirements of this Code, such lot may be used as a building site for a single family residence, provided that the minimum yard, setback, and floor area requirements for district in which said lot is located are maintained.

(6) **Adjoining and Vacant Lots of Record.** If two or more adjoining and vacant lots with continuous frontage are in single ownership at any time after the adoption of this Code and such lots individually are less than the width requirements for the district in

which they are located, such group of lots shall be considered as a single lot or several lots of minimum permitted size and the resulting lot or lots shall be subject to the dimensional requirements of this ordinance.

(7) **Vehicular Access to Commercial or Industrial Property from Public Streets.** Vehicular access or driveways from the traveled portion of public streets onto commercial or industrial property shall be limited to the following:

(a) Shall not be closer to the limits of the owner's land than 8 feet.

(b) Shall not be more than 35 feet wide and measured along the property line.

(c) Shall not be closer together than 16 feet if more than one access is required on the same street frontage.

(d) The flair on each side of access or driveway at the curb line or traveled way shall not be more than 5 feet.

(8) **Special Use Permits.** Special use permits shall be issued by the Building Inspector, only upon authorization by the Common Council after review by the Plan Commission, and are required for the following:

(a) Zero lot line units, also referred to as single-family semi-detached housing, which are two single-family units attached together, side by side, on one or two floors and upon one lot.

(b) Above housing as specified in (a) are to be built in a multi-family zoning only. (Cr. #257)

(9) **Setback Averaging.** Intent of setback averaging is to create uniformity with existing development when redeveloping or adding additions in developed areas. Current regulated setbacks in these existing areas may create individual lots that breaks up consistent and expected structure alignment. Setback averaging is for use in developed areas of the city only.

(a) Application. This section shall apply to all zoning districts and all structures within developed areas.
(b) Procedure.
(1) Building inspector or his/her designee shall calculate average setback of structure type requested within two adjoining lots.
(2) If structures do not exist within two adjoining lots the calculation shall be completed by Plan Commission. Plan Commission shall calculate average based on similar properties located within the same subdivision block based on legal description.
(3) All calculations shall be maintained in a written report and maintained by the city.

12.08.35 **Satellite Dishes.**

(1) **Definition: Satellite Earth Stations.** Dish shaped antennas designed to receive television broadcasts relayed by microwave signals from earth orbiting communication satellites.

(2) **Satellite Stations.** Satellite earth stations shall be regulated in all zoning districts in the following manner.

(a) Not more than one satellite earth station may be allowed per individual recorded residential lot.

(b) Satellite earth stations shall be allowed in rear yards only.

(c) Satellite earth stations shall not exceed twelve (12) feet in diameter. Satellite dishes 36 inches or less in diameter are exempt from this ordinance.

(d) Rear yard setbacks shall be equal to or greater than the required rear yard setbacks for the principal structure within the respective zoning district, but not less than the total vertical height of the satellite earth station.

(e) Satellite earth stations shall not be attached to the wall or roof of any principal or accessory structure; except in commercial and industrial districts, subject to engineering calculations prepared by a registered professional engineer certifying that the proposed satellite earth station is structurally sound and shall not exceed the maximum height regulation of the zoning district in which they are located.

(f) Ground mounted satellite earth stations shall meet the height requirement for accessory structures in the zoning district in which they are located.

(g) All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All installations shall meet a minimum wind load design velocity of eighty (80) miles per hour.

(h) All satellite earth stations shall be screened from view by shrub plantings or fencing four (4) feet high to obstruct the view from the ground level.

(i) No form of advertising or identification is allowed on the dish or framework other than the customary manufacturer's identification plates.

(j) Portable or trailer mounted satellite earth stations are not allowed. Exception: temporary installations for on-site testing and demonstration purposes may be allowed for periods not to exceed five (5) days.

(k) Electrical installations in connection with earth satellite receiving stations including grounding of the system shall be in accordance with the National Electrical Code Standards.

(l) All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground.

(m) Satellite earth stations that cause any harmful interference with radio and/or television broadcasting or reception on adjacent properties shall be governed in accordance with the Federal Communications Commission Standards.

(n) No satellite earth station shall be erected within this community without first obtaining a permit from the Building Inspector, unless said dish is 36 inches or less in diameter.

(o) Applications for a permit shall be accompanied by sufficient information to allow the Building Inspector adequate review of the proposed installation to ensure compliance with this ordinance. (Rep and Recr. #422)

## 12.08.36 **Wireless Telecommunications Towers & Antennas.**

(1) Purpose. The purpose of this ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the City of New Holstein in regulating local zoning. The goals of this ordinance are to protect residential areas and land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques; consider the public health and safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City of New Holstein shall give due consideration to the Comprehensive Plan, Zoning Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. Note: Wisconsin State Statute 66.0404 overrides certain requirements noted below regarding cell phone tower regulations.

(2) Definitions. As used in this ordinance, the following terms shall have the meanings set forth herein:

(a) Alternative Tower Structure: Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.

(b) Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(c) Backhaul Network: The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(d) Collocation: The provision of multiple antennas of more than one commercial wireless communication service provider of government entity on a single tower or structure.

(e) FAA: Federal Aviation Administration.

(f) FCC: Federal Communications Commission

(g) Height: When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.

(h) Preexisting Towers/Antennas: Any tower or antenna for which a building permit of special use permit has been properly issued prior to the effective date of this ordinance.

(i) Tower: Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(3) Applicability.

a. New Towers and Antennas: All new towers or antennas in the City of New Holstein shall be subject to these regulations, except as provided in Sections 3(b) and 3(c).

b. Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas, of any television antenna used for television set reception.

c. Preexisting Towers of Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section 5(b).

(4) Permit Required. No tower or antenna shall be installed unless a permit is first obtained by the owner or his/her agent from the Building Inspector. The following shall be required as part of the application submittal:

a. A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Building Inspector to be necessary to assess compliance with this ordinance;

b. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties;

c. The separation distance from other towers, antennas or sites approved for towers of antennas, that are either within the jurisdiction of the City of New Holstein, or within one mile of the border thereof, including specific information about the location, height, and design of each tower;

d. Landscape plan showing specific plant materials;

e. Method of fencing, including location, materials, and finished color and, if applicable, vegetative screening; and

f. Description of compliance with Section 5.

(5) General Requirements. In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna;

a. Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

b. State or Federal Requirements. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date such standards and regulations, unless a different compliance schedule is mandated by the controlling state or deferral agency. Failure to bring towers of antennas into compliance with such revised standards and regulations

shall constitute grounds for the removal of the tower of antenna at the owner's expense.

c. Collocation. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted in varying heights.

d. Antenna Height. Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

e. Tower Height. The following criteria shall apply in determining the maximum height of a tower.

i. For a single user, up to 90 feet.
ii. For two or more users, up to 120 feet.

f. Separation Between Towers. Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distances shall be measured by a straight line between the base of an existing tower and the base of a proposed tower. Separation distances are as specified herein:

| **New Tower Type** | **Existing Tower Type** | | | |
|---|---|---|---|---|
| | Lattice | Guyed | Monopole 75 Feet In Height Or Greater | Monopole Less Than 75 Feet In Height |
| Lattice | 5000 Feet | 5000 Feet | 1500 Feet | 750 Feet |
| Guyed | 5000 Feet | 5000 Feet | 1500 Feet | 750 Feet |
| Monopole 75 Feet In Height Or Greater | 1500 Feet | 1500 Feet | 1500 Feet | 750 Feet |
| Monopole Less Than 75 Feet in Height | 750 Feet | 750 Feet | 750 Feet | 750 Feet |

g. Setbacks. A tower shall be located not closer that a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and

appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.

h. Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City Council that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the City Council to determine that no Existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

i. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.

ii. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

iii. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

vii. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

i. Aesthetics. Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

j. Separation Between Land Uses. Tower separation shall be measured from the base of the tower to the lot line of the off-site use and/or designated area as specified herein.

| Land Use/Designated | Separation Distance |
|---|---|
| Single family or two-family homes, including modular homes or mobile homes used for living purposes; vacant land zoned for residential use which has been platted or has unexpired preliminary subdivision plat approval. | 200 feet or 300% height of tower, whichever is greater. |
| Land designated by the Comprehensive Plan for future residential use. | 100 feet or 200% height of tower, whichever is greater. |
| Land zoned for manufacturing use, or non-residential use. | No separation requirement. Tower siting subject to zoning district setback requirements. |
| Multifamily dwellings. | 100 feet or 100% of height of tower, whichever is greater. |

k. Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

l. Lighting. Towers shall not be artificially illuminated unless required by the FAA of any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

m. Fencing. A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.

n. Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural landforms shall be preserved to the

maximum extent possible. In some cases, such as towers sited on large, wooden lots, natural growth around the property perimeter may be sufficient buffer.

o. Appurtenant Equipment and Buildings. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

p. Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except were the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

(6) Permitted Uses.

(a) Allowable Zoning Districts: The installation of a tower or antenna, including the placement of buildings or other supporting equipment used in connection with said tower or antenna, may be allowed, as a conditional use, in the I-1 Light Industrial and I-2 Heavy Industrial zoning districts.

(b) Municipal Sites: Antennas installed on a structure other than a new communication tower, or antennas installed on an existing communication tower shall be permitted when located on property owned, leased or otherwise controlled by the City of New Holstein, irrespective of the zoning district, provided that a lease or other agreement to authorize such antenna or tower has been approved by the City.

(c) Antennas or Towers on Existing Structures: An antenna or tower may be situated on the roof of a commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

(d) Antennas on Existing Towers: The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that: (1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole; (2) An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower; (3) After a tower is rebuilt to accommodate collocation, only one tower may remain on the site; (4) The on-site relocation of a tower which comes within the

separation distances to residential units or residentially zoned lands shall only be permitted when approved by the City Council.

(e) Alternative Tower Structure: The use of an alternative tower structure may be permitted, where such use would be consistent with the goals set forth in Section 1 of this ordinance, as determined by the City Council.

(f) Cable Microcell Network: The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(7) Removal of Abandoned Antennas and Towers: An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the City of New Holstein notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(8) Nonconforming Uses.

(a) Not an Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of the ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

(b) Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of the ordinance. (Ord. #385)

## 12.08.37 **WIND AND SOLAR ENERGY SYSTEMS**

Intent: While the city recognizes the importance of wind and solar sources of energy derived from wind and solar, a regulatory approach is needed to assure the health, safety, and general welfare of City of New Holstein residents.

(1) **Scope.** This ordinance regulates solar and wind energy uses that serve electrical needs for the property where it is located.
(2) **Conditional Use Permit required.** Wind and solar energy systems installed on any property regulated by this ordinance require a Conditional Use Permit from the city. In the Conditional Use Permit application process the applicant shall

address all regulations and requirements in this section in addition to other site plan requirements.

**(3) Bulk requirements.**

| | |
|---|---|
| (a) Height | Height requirements shall be set by the zoning district of the property. Section 12.08.34 Exceptions and Modifications may be utilized as part of the Conditional Use Permit process. |
| (b) Setbacks | Setbacks shall meet the requirements set by the zoning district of the property. Additionally, the structures utilized shall have a setback of 1.1 times the maximum height to any occupied community buildings, adjoining property lines and utility lines. |

**(4) Physical characteristics.**

| | |
|---|---|
| (a) Signage | Signage on equipment shall be limited to warnings, equipment information and ownership of system. |
| (b) Finishes | All energy systems regulated by this section shall have an unobtrusive finish. |
| (c) Lighting | Lighting shall be limited to any Federal Aviation Administration (FAA) requirements. |
| (d) Landscaping | Landscaping is encouraged to be utilized to minimize visual impacts of supporting equipment. |

(5) **Noise and effects on land uses.** The applicant shall provide noise maximums and anticipated effects on adjoining parcels as part of the Conditional Use Permit application.

(6) **Airports.** Installations near the airport shall comply with all regulations stipulated by the airport.

(7) **Decommissioning.** An owner of a wind or solar energy system shall decommission and remove the wind energy system when the system is at the end of its useful life.

12.08.38 **OUTDOOR WOOD BURNING FURNACES PROHIBITED** (Created #464)

(1) **Description.** Includes an accessory structure or appliance designed for a location ordinarily outside the principal structure and used to transfer or provide heat via liquid or other means, by burning wood or other solid fuels, for heating any principal or accessory structure on the premises. Does not include fire pits, barbecues, fryers or chimneys.

(2) **Prohibited.** Outdoor Wood Burning Furnaces are Prohibited in all districts.

## 12.09 **DISTRICT REGULATIONS:**

### 12.09.01 "R-A" Residential-Agricultural District.

(1) **Permitted Uses.**

(a) Single-family dwelling units incidental to the agricultural operation.

(b) General farming except farms operated for the disposal of garbage and rubbish, offal or sewage. Efforts shall be taken to minimize negative effects of nearby property owners including odors, commercial spraying and other farming practices.

(c) Stands for the sale of agricultural products provided said products are at least in part raised on the premises.

(d) Public parks and playgrounds.

(e) Commercial greenhouses and nurseries.

(2) **Conditional Uses.**

(a) Hospitals and clinics.

(b) Public and parochial schools.

(c) Municipal buildings.

(d) Tourist camps.

(e) Riding academies.

(f) Golf courses.

(g) Essential service structures.

(h) Cemeteries.

(i) Churches including related structures.

(j) Creameries, milk condenseries, pea vineries and cheese factories.

(k) Animal hospital, provided all principal structures and uses are not less than 100 feet from any residential district.

(3) **Permitted Accessory Use.** Any use permitted as accessory in the "R-1" District.

(4) **Lot Area, Height, lot Width, Yard and Building Requirements.**

| | |
|---|---|
| (a) Minimum Lot Area | 5 acres |
| (b) Minimum Lot Frontage | 330 feet |
| (c) Maximum Height | 30 feet |
| (d) Minimum Setback | 30 feet |
| (e) Minimum Side Yard | 20 feet |
| (f) Minimum Rear Yard | 50 feet |

12.09.02 **"R-1" Single-Family Residential District.**

Intent. This district is intended to permit development which has a moderate density community character. Density and intensity standards for this district are designed to ensure that the single-family residential district shall serve as a designation which preserves and protects the residential community character of its area.

(1) **Permitted Uses.**

(a) Single-family dwellings. (Rep. and Cr. #255)

(b) Bed and Breakfast Establishments

(2) **Conditional Uses.**

(a) Churches, public schools, parochial schools, colleges, public libraries, public museums and art galleries.

(b) Municipal buildings except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards, and penal or correctional institutions and asylums.

(c) Buildings used exclusively for governmental purposes whether city, county, state or federal, provided that no vehicle or equipment storage or repair shall be permitted.

(d) Farms, market gardens, nurseries or greenhouses, providing that no products are offered for sale on the premises and excepting chicken, fur and stock farms, and farms operated for the disposal of garbage, rubbish or offal.

(e) Essential Service Structures (CR. #476)

(f) Non-scholastic schools including, but not limited to dance, music and karate.

(g) Assisted Living Facilities. (Ord. 569)

(h) Parks.

(3) **Permitted Accessory Uses.** No accessory structure or use of land shall be permitted except for one or more of the following:

(a) Private garages and parking spaces.

(b) Signs as regulated in this Chapter.

(c) Private swimming pool, tennis court or other recreational activity intended for the primary use of the occupants of the dwelling located on the same site as the recreational use.

(d) Any other use customarily considered to be accessory to the foregoing permitted uses.

(e) Alternative energy as regulated in this Chapter.

(4) **Lot Area, Height, lot Width, Yard and Building Requirements.**

| | |
|---|---|
| (a) Minimum Lot Area | 8,000 square feet; single family |
| (b) Minimum Lot Frontage | 80 feet |
| (c) Maximum Height | 30 feet |
| (d) Minimum Setback | 30 feet |
| (e) Minimum Side Yard | - 8 feet; 20 feet in aggregate 1 story<br>- 10 feet; 25 feet in aggregate in excess of 1 story |
| (f) Minimum Rear Yard | 25 feet |

12.09.03 **"R-2" Multiple-Family Residential District Low Density.**

Intent. This district is intended to permit development which has a moderate density community character. The land use standards for this district permit multifamily dwellings up to eight units permitted by right. Density and intensity standards for this district are designed to ensure that the district shall serve as a designation which preserves and protects the moderate density residential community character of its area.

(1) **Permitted Uses.**

(a) Any use permitted in the "R-1" District.

(b) Multiple dwellings up to eight units.

(c) Multiple dwelling units with more than eight units in place before January 1, 2016.

(2) **Conditional Use.**

(a) Any permitted conditional use in the "R-1" District.

(b) Mobile home parks.

(c) Professional offices.

(3) **Accessory Uses.** Any permitted accessory use in the "R-1" District.

(4) **Lot Area, Height, lot Width, Yard and Building Requirements.**

| | |
|---|---|
| (a) Minimum Lot Area | - 8,000 square feet; single family<br>- 12,000 square feet; two-family |
| (b) Minimum Lot Frontage | 80 feet |
| (c) Maximum Height | 30 feet |
| (d) Minimum Setback | 30 feet |
| (e) Minimum Side Yard | 10 feet |
| (f) Minimum Rear Yard | 25 feet |
| (g) Open Space Requirement | A minimum of 25% of new construction lots shall be maintained as an open landscaped space. This calculation shall be included on submittal with a description of landscape materials. |
| (h) Garbage/Recycling Dumpster location | All refuse/recycling/garbage shall be in a screened or enclosed structure. Screening and/or enclosed structure shall be noted on submittal including location and building materials. Refuse/recycling/garbage shall not be located in front yard. |

12.09.04 **"R-3" Multiple-Family Residential District High Density.**

Intent. This district is intended to permit development which has a high density. The land use standards for this district permit multifamily dwellings above eight units permitted by right. Density and intensity standards for this district are designed to ensure that the district shall serve as a designation which preserves and protects the moderate density residential community character of its area.

(1) **Permitted Uses.**

(a) Any use permitted in "R-1" or “R-2” Districts.

(b) Multiple dwellings with nine or more units.

(2) **Conditional Use.**

(a) Any permitted conditional use in the "R-1" or “R-2” Districts.

(3) **Accessory Uses.** Any permitted accessory use in the "R-1" or “R-2” Districts.

(4) **Lot Area, Height, lot Width, Yard and Building Requirements.**

| | |
|---|---|
| (a) Minimum Lot Area | 10,000 square feet |
| (b) Minimum Lot Frontage | 80 feet |
| (c) Maximum Height | 45 feet |
| (d) Minimum Setback | 30 feet |
| (e) Minimum Side Yard | 10 feet |
| (f) Minimum Rear Yard | 30 feet |
| (g) Open Space Requirement | A minimum of 25% of new construction lots shall be maintained as an open landscaped space. This calculation shall be included on site plan submittal with a description of landscape materials. |
| (h) Garbage/Recycling location | All refuse/recycling/garbage shall be in a screened or enclosed structure. Screening and/or enclosed structure shall be noted on site plan submittal including location and building materials. Refuse/recycling/garbage shall not be located in front yard |

## 12.09.04 **"C-1" General Commercial District.**

Intent: This district is intended to permit large and small scale commercial development which is compatible with the desired overall community character of the area in general. A wide range of office, retail, and lodging land uses are permitted within this district.

(1) **Permitted Uses.**

(a) Any use permitted in "R-1" and "R-2" and “R-3”. (Rep. & Recr. #359)

(b) Business or professional office buildings.

(c) Retail trade.

(d) Hotels.

(e) Theaters.

(f) Amusement or entertainment halls.

(g) Public parking garages and repair shops (except auto repair, e.g. small appliance) provided no such garage shall have an entrance or exit for motor vehicles within 200 feet of any entrance or exit to a public or private school, playground, hospital or children's or people's home.(Rep. and Recr. #298)

(h) Accessory buildings and uses customarily incidental to any of the above structures or uses when located on the same premises.

(i) Motels, subject to approval by the Plan Commission of site plans and setback lines.

(j) Wholesale business and light warehousing, where the storage of goods is limited to interior storage of light manufactured goods not requiring any further processing and not requiring mechanical lifts, cranes or hoists outside the building for handling, loading or unloading. All storage shall be enclosed.

(k) Municipal buildings where the use conducted is customarily considered to be an office use.

(l) Restaurants, but not of the drive-in variety.

(2) **Conditional Uses.** Within any "C-1" General Business District no structure or land shall be used for the following uses except through granting a conditional permit:

(a) Armories, convention halls, sport arena and stadiums.

(b) Bowling alleys, billiard and pool rooms, drive-in theaters, skating rinks, dance halls, gymnasiums, YMCA, YWCA, night clubs, liquor stores, fraternal organizations and similar uses provided the structure in which the use is similar shall not be located within 100 feet of any "R" District.

(c) Bus terminals.

(d) Business or trade school when conducted entirely within a building.

(e) Drive-in business.

(f) Motor fuel stations subject to the regulations of this Chapter.

(g) Stone and monument sales.

(h) Television and radio stations and transmitting towers.

(i) Accessory structures or uses other than those listed as permitted.

(j) Open sales lot or open storage.

(k) Animal hospital or clinic; kennel.

(l) Essential Service Structures (Cr. #476)

(m) Bulk Storage: Liquid, flammable, combustible, and/or hazardous chemicals.

(3) **Permitted Accessory Uses.**

(a) Private garages, off-street parking and loading spaces as regulated in this

Chapter.

(b) Signs as regulated in this Chapter.

(c) Any incidental repair or processing necessary to conduct a permitted use shall not exceed 40% of the floor space of the principal building.

(d) Decorative landscape features.

(e) Any incidental repair or processing necessary to conduct a permitted principal use.

(f) Alternative energy as regulated in this Chapter.

**(4) Lot Area, Height, lot Width, Yard and Building Requirements.**

| | **Downtown** | **Highway** |
|---|---|---|
| (a) Minimum Lot Area | 7,500 sq. feet | 10,000 sq. feet |
| (b) Minimum Lot Frontage | 50 feet | 80 feet |
| (c) Maximum Height | 45 feet | 45 feet |
| (d) Minimum Setback | 15 feet | 30 feet |
| (e) Minimum Side Yard | | |
| 1. Within District | 0 feet | 8 feet |
| 2. Adjacent to Residential Zoned Districts | 12 feet | 12 feet |
| 3. Adjacent to Side Street | 15 feet | 25 feet |
| (f) Minimum Rear Yard | 15 feet | 25 feet |
| (g) Open Space Requirement. | A minimum of 10% of new construction lots (excluding non-conforming reconstruction) shall be maintained as an open landscaped space. This calculation shall be included on site plan submittal with a description of landscape materials. | A minimum of 25% of new construction lots (excluding non-conforming reconstruction) shall be maintained as an open landscaped space. This calculation shall be included on site plan submittal with a description of landscape materials. |
| (h) Garbage/Recycling Dumpster location. | All refuse/recycling/garbage shall be in a screened or enclosed structure. Screening and/or enclosed structure shall be noted on site plan submittal including location and building materials. Refuse/recycling/garbage shall not be located in front yard. | |

| | |
|---|---|
| (i) Outdoor storage. | Outdoor storage (excluding sales lots) shall be screened from public view using landscaping, berms, fences or other methods. Outdoor storage areas shall be illustrated on the site plan. |
| (j) Loading areas | Loading docks should be located to limit nuisance noise, light and sound to nearby properties or appropriate screening (landscaping, berms, fences or other methods) shall be utilized. |

12.09.06 **"I-1" Light Industrial District.**

Intent: This district is intended to permit large and small scale industrial and office development. Uses are focused on indoor industrial activities which are not typically associated with high levels of noise, soot, odors and other potential nuisances for adjoining properties.

(1) **Permitted Uses.** In this "I-1" Light Industrial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, except for one or more of the following uses:

(a) Office.
(b) Personal or professional services.
(c) Indoor maintenance service.
(d) Light industrial.
(e) Wholesale business.
(f) Indoor sales incidental to light industrial use.
(g) Indoor storage or wholesaling.
(h) Indoor maintenance service.
(i) Repair, service and assembly of motorized or non-motorized vehicles, including the repair and storage of automatic accessories, except the wrecking of motor-propelled vehicles.
(j) Public buildings and facilities.
(k) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the zoning administrator; provided these uses are not explicitly mentioned elsewhere in this chapter.
(l) Brewing of beer and alcohol.

(2) **Performance Standards.** The manufacture, compounding, processing, packaging treatment, assembly, or storage of any products or materials is permitted in the "I-1" District provided the use is in conformity to the performance standards outlined in sec. 12.08.30 of this Chapter and further provided, such use is not listed as a specific use permitted by right or conditional use in the "I-2" District as not likely to meet the performance standards as outlined in sec. 12.08.30 of this Chapter. Applicants for building permits in the "I-1" District shall submit such evidence as may be required by

the Building Inspector to assure compliance with the performance standards. Should the Building Inspector have any doubt as to the ability of any proposed use to meet the required standards, the matter shall be referred to the Planning Commission, who shall make a recommendation to the Council who shall grant or deny the application.

(3) **Conditional Uses.** Within the "I-1" District no structure or land shall be used for the following uses except by conditional use permit:

(a) Conditional uses which are permitted in the "C-1".

(b) Essential service structures.

(c) Airports, truck and freight terminals and open sales lots.

(d) Radio and television transmission towers.

(e) Contractor's yards when conducted within a building or a completely fenced area.

(f) Accessory structures.

(g) Restaurants.

(h) Creamery.

(i) Open storage (primary or secondary use).

(k) Offices.

(l) Vocational and industrial training schools.

(m) Sports training facilities.

(n) Brewing of beer and distillery of alcohol.

(o) Small scale agriculture operations to support business/manufacturing.

(p) Bulk Storage: Liquid, flammable, combustible, and/or hazardous chemicals.

(4) **Permitted Accessory Uses.**

(a) Signs as regulated in this Chapter.

(b) Off-street parking and loading as regulated in this Chapter.

(c) Residential structures and related residential uses necessary for security and safety reasons in relation to a principal use.

(d) Guest houses owned and operated in conjunction with a permitted principal use.

(e) Alternative energy as regulated in this Chapter.

(5) **Lot Area, Height, lot Width, Yard and Building Requirements.**

| | |
|---|---|
| (a) Height | 5 stories or 60 feet in height. |
| (b) Minimum lot width | 50 feet |
| (c) Side Yard | Not less than 10 feet except where a lot has railroad trackage abutting the interior side lot line there shall be no side yard requirement abutting the trackage. |
| (d) Setback | Not less than 15 feet. |
| (e) Rear Yard | Minimum rear yard depth of 25 feet except where a structure abuts railroad trackage there may be no rear yard requirements. |
| (f) Lot Area | No minimum lot size. |
| (g) Open Space | A minimum of 25% of new construction lots shall be maintained as an open landscaped space. This calculation shall be included on site plan submittal with a description of landscape materials. |
| (h) Garbage/Recycling location | All refuse/recycling/garbage shall be in a screened or enclosed structure. Screening and/or enclosed structure shall be noted on site plan submittal including location and building materials. Refuse/recycling/garbage shall not be located in front yard. |
| (i) Outdoor storage | Outdoor storage (excluding sales lots) shall be screened from public view using landscaping, berms, fences or other methods. Outdoor storage areas shall be illustrated on the site plan. |
| (j) Loading areas | Loading docks should be located to limit nuisance noise, light and sound to nearby properties. Appropriate screening (landscaping, berms, fences or other methods) shall be utilized. |

12.09.07 **"I-2" Heavy Industrial District**.

Intent: This district is designed to permit a very wide variety of industrial uses which may occur both indoors and outdoors, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining properties.

(1) **Permitted Uses.** Within any "I-2" District no structure or land shall be used except for one or more of the following uses:

(a) Any use permitted in the "I-1" District as regulated therein.

(b) Manufacturing operations.

(c) Light industrial.

(d) Commercial stockyards and slaughtering of animals.

(e) (Ord 609).

(f) Motor fuel stations.

(2) **Conditional Uses.** Within the "I-2" District no structure or land shall be used for the following uses except by conditional use permit:

(a) Industrial mills

(b) Storage, utilization or manufacture of materials or products which could decompose by detonation.

(c) Refuse and garbage disposal.

(d) Any activity which emits smoke darker than Shade 3 on the Ringlemann Chart.

(e) Auto wrecking, junk yard, used auto parts and similar uses.

(f) Incineration or reduction of waste material other than customarily incidental to a principal use.

(g) Kilns or other heat processes fired by means other than electricity.

(h) Any use abutting or across the street from any lot other than in the "I-2" District.

(i) Explosives including all utilization, storage or manufacture of materials or products such as TNT or dynamite which could decompose by detonation.

(j) Open storage (primary and secondary use).

(k) Essential Service Structures (Cr. #476)

(l) Small scale agriculture operations to support business/manufacturing.

(m) Sexually Oriented Businesses

(n) Bulk Storage: Liquid, flammable, combustible, and/or hazardous chemicals.

(3) **Permitted Accessory Uses.** Accessory uses permitted in "I-1" Districts.

(4) **Lot Area, Height, lot Width, Yard and Building Requirements.**

| | |
|---|---|
| (a) Height | 5 stories or 60 feet in height. |
| (b) Minimum lot width | 50 feet |
| (c) Side Yard | Not less than 15 feet. |
| (d) Setback | Not less than 25 feet. |
| (e) Rear Yard | Minimum rear yard depth of 25 feet except where a structure abuts railroad trackage there may be no rear yard requirements. |
| (g) Lot Area | No minimum lot size. |
| (h) Open Space | A minimum of 25% of new construction lots shall be maintained as an open landscaped space. This calculation shall be included on site plan submittal with a description of landscape materials. |
| (i)Garbage/Recycling location | All refuse/recycling/garbage shall be in a screened or enclosed structure. Screening and/or enclosed structure shall be noted on site plan submittal including location and building materials. Refuse/recycling/garbage shall not be located in front yard. |
| (j) Outdoor storage | Outdoor storage (excluding sales lots) shall be screened from public view using landscaping, berms, fences or other methods. Outdoor storage areas shall be illustrated on the site plan. |
| (k) Loading areas | Loading docks should be located to limit nuisance noise, light and sound to nearby properties. Appropriate screening (landscaping, berms, fences or other methods) shall be utilized. |

12.09.08 **Flood Plain District.**

Flood Plain Districts have been established within the City by Ordinance No. 192 "Flood Plain Zoning Ordinance of the City of New Holstein." While not reprinted herein, Ordinance No. 192 is hereby made part of this Zoning Ordinance.

12.10 **Administration and Enforcement:**

12.10.01 **Organization.**

(1) The City Planning Commission has been designated by the City Council as the Advisory Commission to the City of New Holstein in planning and zoning matters.

(2) The Building Inspector is the administrative official designated by the City Council to administer and enforce this Code. He/she may be provided with the assistance of such other persons as the City Planning Commission may direct. The Building Inspector is hereby authorized and directed to enforce all provisions of this Code,

investigate all complaints, give notice of violations, issue order to comply with the zoning code, and assist the City Attorney in the prosecution of violators. The Building Inspector may enter at any reasonable time onto any public or private lands to make a Zoning Inspection while in the performance of his/her duties.

12.10.02 **Site Plan Requirements.**

Intent: Site Plans are required to ensure that new development complies with the city's zoning ordinance, comprehensive plan and other agency requirements, thereby promoting the health, safety, and general welfare of City of New Holstein residents.

(1) Development subject to plan review. A Site Plan shall be submitted to the City for review and approval prior to issuance of a building permit for the:

(a) Construction of any new building, except for single- and two-family dwellings and accessory structures associated with single- and two-family dwellings; and

(b) Additions to existing buildings which increase the floor area of the existing building by 50% or more (excluding single and two family dwellings); and

(c) Any addition or expansion to an existing building which does not increase the square footage of the existing building by 50% or more, but which results in a substantial modification to the property as determined by the Building Inspector or his/her designee.

(2) Authority. Site plan review shall be subject to review and approval by the Plan Commission, which shall have 30 days to consider and approve or reject the site plan with or without modifications, although this period may be extended by agreement of the parties concerned.

(3) Occupancy permits. No occupancy permits shall be issued for any building or use that is not in accordance with the approved site plan.

(4) Submittal requirements. The Site Plan submittals shall:

(a) Contact information.
   a. Name of project.
   b. Name and contact information for applicant, engineer and property owner.

(b) Site Plan layout.
   a. Submitted electronically as PDF documents using 11 x 17 document sizes.
   b. Drawn to scale.
   c. Include a north arrow.
   d. Include date and revisions.
   e. Show property lines and right of way.
   f. Indicate location, type, use and size of structures on adjacent properties within 200 feet of the proposed development.

(c) Development.
   a. Proposed size, height, location, use and arrangement of buildings.
   b. Exterior building elevations including identification of building materials and colors.
   c. Parking areas with proposed arrangement of stalls and number of cars, entrance and exit driveways and their relationship to existing and proposed streets.

d. Outside storage areas/refuse enclosures, outdoor lighting locations and all fences or retaining walls, identification of all surface types (i.e., grass, concrete, asphalt), and any other information as requested by the City.
e. Signage information including location(s) and dimension(s).
f. Stormwater management or drainage plan.
g. Landscaping plan. Should include species names and quantities.
h. Show existing topography with contour intervals of not less than 4 feet.

(d) Narrative
a. Include estimated number of employees that will work at completed site.
b. Hours of operation.

(e) Tabulation
a. Size of parcel in square feet.
b. Gross floor area of building.
c. Percent of site covered by buildings.

(5) Prevailing standards. If the development of property is subject to more restrictive Site Plan Review standards per a different section of this ordinance, the more restrictive standards for review shall prevail.

(6) Validity of approval, expiration and revisions to site plans. A site plan shall become effective upon obtaining approval by the city. The approval of any site plan required by this section shall remain valid for one year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction has not commenced. A revision to a site plan may be requested by submitting the changes to the City. The City may then approve, approve with conditions, or deny the requested revision(s).

(7) Incomplete site plans. Incomplete site plans will not be accepted for review and permits will not be issued.

12.10.03 **Rezonings.** The procedure for changing zoning district boundaries (rezoning) shall be as follows:

(1) The Planning Commission, Council or property owner may initiate a rezoning. Persons wishing to initiate a rezoning of property shall make application on forms provided by the City Clerk. The form shall be accompanied by a fee established by the Council, to be used for the costs of processing the application. The application shall be filed with the City Clerk. All applications for amendments changing zoning district boundaries shall be filed in the office of the City Clerk. Upon receipt of said application, the City Clerk shall schedule a Plan Commission meeting to review the rezoning request. Prior to the Plan Commission meeting, the City Clerk, shall notify each property owner within 200 feet of the proposed area to be rezoned, by written notice, of the date, time, place and purpose of said Plan Commission meeting.(Rep. and Recr. #346)

(2) Within 60 days after the date of receipt of the petition from the City Clerk, the Planning Commission shall make a written report to the City Council with its findings and recommendations.

(3) The Council shall hold a hearing within 30 days after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within 60 days after receipt to the application, then the Council shall hold a public hearing within 30 days after the expiration of the 60 day period. Failure to receive a report from the Planning Commission as herein provided shall not invalidate the proceedings or actions of the Council. The Council shall give at least two weeks' notice by publication of a Class 2 notice under Chapter 985 of the Wisconsin Statutes of the proposed rezoning and of the hearing thereon. At least 10 days prior notice in writing of such hearing shall be given the Clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed rezoning, but failure to give such notice shall not invalidate the rezoning.

(4) The Council shall not rezone any land or area in any zoning district or make any other proposed amendment to this Chapter without having first referred it to the Planning Commission for their consideration of recommendations.

(5) Rezoning applications may be denied by motion of the Council and such motion shall constitute a finding and determination that the proposed rezoning is not in the best interest for the physical development of the City. No application which has been denied wholly or in part shall be resubmitted for a period of 6 months from the date of said order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.

12.10.04 **Conditional Use Permits.** The procedure for issuance of conditional use permits is as follows:

(1) The person applying for a conditional use permit shall fill out a form provided by the Council and the City Clerk together with a fee as established.

(2) The Clerk shall refer the application to the Planning Commission. The Planning Commission shall consider the petition at its next regular meeting, but not earlier than 7 days from the date of submission to the Planning Commission.

(3) The report of the Planning Commission shall be placed on the agenda of the City Council at its next regular meeting following referral from the Planning Commission, but not more than 60 days after the application has been submitted by the applicant.

(4) The City Council must take action on the application within 30 days after receiving the report of the Planning Commission. If it grants the conditional use permit, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

(5) A conditional use permit shall become void one year after it was granted unless made use of within the year or such longer period as the City Council may provide.

12.10.05 **Variances.** Where there are practical difficulties or unnecessary hardships in any way of carrying out the strict letter of the provisions of this Chapter, a variance may

be granted. The hardships or difficulties must have to do with the characteristics of the land and not of the property owners. The procedure for granting variances is as follows:

(1) A person desiring a variance shall fill out a form provided by and submitted to the City Clerk together with a fee as established by the Council.

(2) Applicant provides detailed plans/information describing the lot and project (location, dimensions, and materials);

(3) Applicant provides a written statement of verifiable facts showing that the project meets the legal criteria for a variance (Three Step Test);

(4) Stake out lot corners or lines, the proposed building footprint and all other features of the property related to the request;

(5) The application shall be referred to the Board of Zoning Appeals;

(6) The burden will be on the property owner to provide information upon which the board may base its decision.

(7) At the hearing, any party may appear in person or may be represented by an agent or attorney.

(8) If any requirements are not met or if the applicant or the applicants agent do not appear at the public hearing, the board must deny the request for a variance and the fee will be forfeited.

12.10.06 **Appeals.**

(1) The Board of Zoning Appeals shall consist of 5 members appointed by the Mayor for a period of 3 years, subject to the confirmation of the Council. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The terms of not more than 2 members shall expire in any one calendar year. The Mayor shall designate one of the members as chairman. The Board of Zoning Appeals may employ a secretary and other employees. The Mayor shall appoint two alternate members for a term of 3 years. The alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.(Rep. & Rec. #397)

(2) The Board of Zoning Appeals shall have the following powers:

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

(b) To authorize, upon appeal in specific cases, such variance from the terms of this Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary

hardship so that the spirit of the Chapter shall be observed, public safety and welfare secured and substantial justice done.

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

(d) The Board of Zoning Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector. The concurring vote of 4 members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Chapter.

(e) In addition to the foregoing, the Board of Zoning Appeals shall have the following specific powers:

1. Grant a permit for a temporary building for commerce or industry in a residential district which is incidental to the residential development, such permit to be issued for a period of not more than one year.

2. By special permit, after due notice and public hearing, authorize the location of any of the following buildings or uses in any district from which they are excluded by this chapter provided that such building or use shall comply with all other regulations in the district in which it is proposed to be relocated.

a. Nurseries and greenhouses for the propagation and cultivation of plants.

b. Private clubs and lodges excepting those the chief activity of which is a service customarily carried on as a business.

c. Hospitals and clinics.

d. Institutions of an educational, philanthropic or eleemosynary nature.

e. Cemeteries.

f. Community buildings or recreation fields.

g. Land reclamation, mining, soil processing.

h. Relocated structures.

i. On passing upon appeals covering the foregoing uses, the Board may establish adequate safeguards and conditions in harmony with the terms of this Chapter,

particularly as they apply to structures of a height and bulk greater than the normal standards of the district in which the proposed use may be located.

(f) Exercise authority granted the Board by this Chapter to interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the "District Map" accompanying and made a part of this Chapter, where the street layout actually on the ground varies from the street layout on the aforesaid map.

(g) To call on any other City Department for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance as may be reasonably required.

1. At any time within 90 days after the decision of the Building Inspector under the provisions of this Chapter, except in connection with prosecutions for violations thereof, the applicant or other person or officer of the City Council affected thereby may appeal to the Board of Zoning Appeals by filing a written notice stating the action appealed from and stating the specific grounds upon which the appeal is made.

2. The Board of Zoning Appeals shall fix a reasonable time for hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

3. Notice of the hearing before the Board of Zoning Appeals shall be mailed to all appellants. In all cases involving determination of district boundary lines, or interpretation of the test of the Chapter, a Class 1 "Notice of Hearing" under Chapter 985, WI Stats., shall be published in the official newspaper 10 days before the hearing.

(h) **Appeals from the Decisions of the Board.** Any person or persons, jointly or severally, aggrieved by the decisions of the Board, or any taxpayer, or any officer, department, board or bureau of the City of New Holstein, may within 30 days after the filing of the decision in the office of the City Clerk, but not thereafter, present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision was illegal, in whole or in part, specifying the grounds of illegality whereupon such decision of said Board shall be subject to review by certiorari as provided by law.

12.10.07 **Enforcing Officer and Penalty.** This Chapter shall be administered by the Building Inspector and enforced by the City Council who may institute, in the name of the City, any appropriate actions or proceedings against a violator as provided by law. Any person who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a penalty as provided in sec. 20.04 of this Municipal Code.

12.10.08 **Duties of the Building Inspector.** The Building Inspector shall enforce this chapter and in addition thereto and in furtherance of said authority, he shall:

(1) Determine that all building permits comply with the terms of this Chapter.

(2) Conduct inspections of buildings and use of land to determine compliance with the terms of this Chapter.

(3) Maintain permanent and current records of this Chapter including, but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications therefore.

(4) Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies.

(5) Institute in the name of the City any appropriate actions or proceedings against a violator as provided by law.

12.10.09 **Building Permits.** No person shall erect, alter, wreck or move any building, sign or part thereof without first securing a building permit therefore.

12.10.10 **Certificate of Occupancy.**

(1) **Application.** No structure hereafter erected or moved, or that portion of an existing structure erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Inspector stating that the structure complies with all of the provisions within this Chapter. No parcel of land unoccupied by a building or structure shall be utilized for a use until a certificate of occupancy has been issued by the Building Inspector stating that the proposed use of land complies with all of the provisions within this Chapter.

(2) **Request for Certificate.** Application for a certificate shall be made coincident with the application for a building permit, and shall state the use that the building or the proposed use of the land is intended for. The certificate shall be issued within 10 days after the Building Inspector shall have found the building or structure satisfactory.

12.10.11 **Changes and Amendments.**

(1) **Procedure.** The City Council may from time to time on its own motion or in petition, after public notice and hearing as provided by the law, amend, supplement or change, modify or repeal the boundaries or regulations herein or subsequently established, after submitting the same to the City Plan Commission for its recommendation and report. In case, however, of a protest against such change duly signed and acknowledged by the owners of 20 percent or more of the frontage proposed to be changed, or of the frontage immediately in the rear thereof, or directly opposite thereto, such amendment shall not be passed except by a 3/4 vote of all the members of the City Council.

12.10.12 **Schedule of Fees, Charges and Expenses.**

(1) **Establishment.** The City Council will establish a schedule of fees, charges and expenses and a collection procedure for changes, appeals, and other matters pertaining to this Code.

(2) **Collection Office.** The schedule of fees, charges and expenses shall be posted in the office of the Building Inspector located in City Hall, who shall be responsible for their collection. The schedule may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action will be taken on any application, appeal, or other matter requested.

12.10.13 **Legal Status.**

(1) **Conflict with Other Laws.** Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under a statute or other legal document, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute or legal document require more restrictive standards than are required by this Ordinance, the provision of such statute or document shall govern.

(2) **Validity.** Should any section, clause or provision of this Ordinance be declared by the courts to be invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional.

(3) **Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances in conflict herewith are repealed.

(4) **Effective Date.** This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

12.11.00 **Wind and solar energy systems**

Intent: While the city recognizes the importance of wind and solar sources of energy derived from wind and solar, a regulatory approach is needed to assure the health, safety, and general welfare of City of New Holstein residents.

(1) Scope. This ordinance regulates solar and wind energy uses that serve electrical needs for the property where it is located.
(2) Conditional Use Permit required. Wind and solar energy systems installed on any property regulated by this ordinance require a Conditional Use Permit from the city. In the Conditional Use Permit application process the applicant shall address all regulations and requirements in this section in addition to other site plan requirements.
(3) Bulk requirements.

| | |
|---|---|
| (a) Height | Height requirements shall be set by the zoning district of the property. Section 12.08.34 Exceptions and Modifications may be utilized as part of the Conditional Use Permit process. |
| (b) Setbacks | Setbacks shall meet the requirements set by the zoning district of the property. Additionally, the structures utilized shall have a setback of 1.1 times the maximum height to any occupied |

| | |
|---|---|
| | community buildings, adjoining property lines and utility lines. |

(4) Physical characteristics.

| | |
|---|---|
| (a) Signage | Signage on equipment shall be limited to warnings, equipment information and ownership of system. |
| (b) Finishes | All energy systems regulated by this section shall have an unobtrusive finish. |
| (c) Lighting | Lighting shall be limited to any Federal Aviation Administration (FAA) requirements. |
| (d) Landscaping | Landscaping is encouraged to be utilized to minimize visual impacts of supporting equipment. |

(5) Noise and effects on land uses. The applicant shall provide noise maximums and anticipated effects on adjoining parcels as part of the Conditional Use Permit application.
(6) Airports. Installations near the airport shall comply with all regulations stipulated by the airport.
(7) Decommissioning. An owner of a wind or solar energy system shall decommission and remove the wind energy system when the system is at the end of its useful life.

# CHAPTER 12 APPENDIX A

# FLOODPLAIN ZONING ORDINANCE

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

## 1.1 STATUTORY AUTHORIZATION

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

## 1.2 FINDING OF FACT

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

## 1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

(1) Protect life, health and property;

(2) Minimize expenditures of public funds for flood control projects;

(3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

(4) Minimize business interruptions and other economic disruptions;

(5) Minimize damage to public facilities in the floodplain;

(6) Minimize the occurrence of future flood blight areas in the floodplain;

(7) Discourage the victimization of unwary land and homebuyers;

(8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

(9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

## 1.4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for the City of New Holstein, Calumet County, Wisconsin.

## 1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood.
**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(2) OFFICIAL MAPS & REVISIONS

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

OFFICIAL MAPS: Based on the Calumet County Flood Insurance Study (FIS), dated (February, 2009), volume (55015CV000A)

(a) Calumet County Flood Insurance Rate Map (FIRM), panel numbers (**55015C0278E, 55015C0279E, and 55015C0290E,**) dated **February 4, 2009**; with corresponding profiles that are based on the FIS.

(3) ESTABLISHMENT OF DISTRICTS

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

(a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

(b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

(c) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below.

(a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 8.1 (6).

(5) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0.

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

(6) COMPLIANCE

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

(8) ABROGATION AND GREATER RESTRICTIONS

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

(b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

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

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

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

(13) GENERAL DEVELOPMENT STANDARDS

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

## 2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

## 2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

(1) Except as allowed in par. (3) below, no floodplain development shall:

(a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

(b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

(3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

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

## 2.2 WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.
As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

## 2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 8.0.

## 2.4 PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(1) The campground is approved by the Department of Health and Family Services.
(2) A land use permit for the campground is issued by the zoning administrator.
(3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
(4) There is an adequate flood warning procedure for the campground that offers the

minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

(5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.

(6) Only camping units are allowed.

(7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.

(8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.

(9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

(10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is located.

(11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

(12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

## 3.0 FLOODWAY DISTRICT (FW)

### 3.1 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.4.

### 3.2 PERMITTED USES

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

- they are not prohibited by any other ordinance;
- they meet the standards in s. 3.3 and 3.4; and
- all permits or certificates have been issued according to s. 7.1:

(1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.

(5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).

(6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(7) Public utilities, streets and bridges that comply with s. 3.3(3).

## 3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

(1) GENERAL

(a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.

(b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:

1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

2. An analysis calculating the effects of this proposal on regional flood height.

(c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) STRUCTURES

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

(a) The structure is not designed for human habitation and does not have a high flood damage potential.

(b) It must be anchored to resist flotation, collapse, and lateral movement;

(c) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

(d) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

(a) Adequate floodproofing measures are provided to the flood protection elevation; and

(b) Construction meets the development standards of s. 2.1.

(4) FILLS OR DEPOSITION OF MATERIALS

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

(a) The requirements of s. 2.1 are met;

(b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;

(c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(d) The fill is not classified as a solid or hazardous material.

## 3.4 PROHIBITED USES

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

(1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

(2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;

(5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(6) Any solid or hazardous waste disposal sites;

(7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;

(8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

## 4.0 FLOODFRINGE DISTRICT (FF)

### 4.1 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

### 4.2 PERMITTED USES

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

### 4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

S. 2.1 shall apply in addition to the following requirements according to the use requested.

(1) RESIDENTIAL USES

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

(a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;

(b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

(c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).

(d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) ACCESSORY STRUCTURES OR USES

(a) Except as provided in par.(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than $10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 3.3 (2) (a),(b),(c) and (d) and 4.3 (5) below.

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of

and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;

(b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All on-site sewage disposal systems shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

(8) WELLS

All wells shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) MANUFACTURED HOMES

(a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
1. have the lowest floor elevated to the flood protection elevation; and
2. be anchored so they do not float, collapse or move laterally during a flood

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

## 5.0 GENERAL FLOODPLAIN DISTRICT (GFP)

### 5.1 APPLICABILITY

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

### 5.2 PERMITTED USES

Pursuant to s. 5.4, it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

### 5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The rest of this ordinance applies to either district.

### 5.4 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

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

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

(2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

(a) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

(b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

(c) Profile showing the slope of the bottom of the channel or flow line of the stream;

(d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

## 6.0 NONCONFORMING USES

### 6.1 GENERAL

(1) APPLICABILITY

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

(c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

(e) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s.4.3(1).

(f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).

(g) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

(h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

(1) Residential Structures

(a) Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 7.5(2).

(b) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

(c) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed

and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

(e) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(1).

(f) in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(2) Nonresidential Structures

(a) Shall meet the requirements of s. 6.1(2)(h)1a-b and e-g.

(b) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 7.5(1) or (2).

(c) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(1).

(3) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1(2)(h)1if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

## 6.2 FLOODWAY AREAS

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(a) Has been granted a permit or variance which meets all ordinance requirements;

(b) Meets the requirements of s. 6.1;

(c) Will not increase the obstruction to flood flows or regional flood height;

(d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation;

(e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

4. The use must be limited to parking or limited storage.

(2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.

(3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

## 6.3 FLOODFRINGE AREAS

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 4.3, except where s. 6.3(2) is applicable.

(2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(a) No floor is allowed below the regional flood elevation for residential or commercial structures;

(b) Human lives are not endangered;

(c) Public facilities, such as water or sewer, will not be installed;

(d) Flood depths will not exceed two feet;

(e) Flood velocities will not exceed two feet per second; and

(f) The structure will not be used for storage of materials as described in s. 4.3(6).

(3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

(a) Meets all other regulations and will be granted by permit or variance;

(b) Does not exceed 60 square feet in area; and

(c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.

(4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

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

## 7.0 ADMINISTRATION

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

## 7.1 ZONING ADMINISTRATOR

(1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

(a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

(c) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(d) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations for floodplain development;

3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

4. All substantial damage assessment reports for floodplain structures.

(e) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(g) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) LAND USE PERMIT

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

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;

2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

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

1. Location, dimensions, area and elevation of the lot;

2. Location of the ordinary highwater mark of any abutting navigable waterways;

3. Location of any structures with distances measured from the lot lines and street center lines;

4. Location of any existing or proposed on-site sewage systems or private water supply systems;

5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and

9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

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

   a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;

   b. A map showing location and details of vehicular access to lands outside the floodplain; and

   c. A surface drainage plan showing how flood damage will be minimized.

   The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire 18 months after issuance.

(3) CERTIFICATE OF COMPLIANCE

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

(a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(b) Application for such certificate shall be concurrent with the application for a permit;

(c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 7.5.

(4) OTHER PERMITS

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

## 7.2 ZONING AGENCY

(1) The Plan Commission shall:

(a) oversee the functions of the office of the zoning administrator; and

(b) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(2) This zoning agency shall not

(a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

(b) amend the text or zoning maps in place of official action by the Governing body.

## 7.3 BOARD OF ADJUSTMENT/APPEALS

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

(1) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

(a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) APPEALS TO THE BOARD

(a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

a. Fix a reasonable time for the hearing;
b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent. The board shall:

a. Resolve boundary disputes according to s. 7.3(3).

b. Decide variance applications according to s. 7.3(4).

c. Decide appeals of permit denials according to s. 7.4.

(c) DECISION: The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;

2. Be sent to the Department Regional office within 10 days of the decision;

3. Be a written determination signed by the chairman or secretary of the Board;

4. State the specific facts which are the basis for the Board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) BOUNDARY DISPUTES

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

(a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

(b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.

(c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

(4) VARIANCE

(a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and

4. The variance is consistent with the purpose of this ordinance in s. 1.3.

(b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance may not cause any increase in the regional flood elevation;

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district.

2. Be granted for a hardship based solely on an economic gain or loss.

3. Be granted for a hardship which is self-created.

4. Damage the rights or property values of other persons in the area.

5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.1.

6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

## 7.4 TO REVIEW APPEALS OF PERMIT DENIALS

(1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:

(a) Permit application data listed in s. 7.1(2).

(b) Floodway/floodfringe determination data in s. 5.4.

(c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.

(d) Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

(a) Follow the procedures of s. 7.3;

(b) Consider zoning agency recommendations; and

(c) Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the Board shall:

(a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

## 7.5 FLOODPROOFING

(1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

(2) Floodproofing measures shall be designed to:

(a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(b) Protect structures to the flood protection elevation;

(c) Anchor structures to foundations to resist flotation and lateral movement; and

(d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(3) Floodproofing measures could include:

(a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or

(b) Adding mass or weight to prevent flotation.

(c) Placing essential utilities above the flood protection elevation.

(d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

(e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

(f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

## 7.6 PUBLIC INFORMATION

(1) Place marks on structures to show the depth of inundation during the regional flood.

(2) All maps, engineering data and regulations shall be available and widely distributed.

(3) All real estate transfers should show what floodplain zoning district any real property is in.

## 8.0 AMENDMENTS

## 8.1 GENERAL

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

(1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

(2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.

(3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

(4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

(5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.

(6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

**Note:** Consult the FEMA web site - www.fema.gov - for the map change fee schedule.

## 8.2 PROCEDURES

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

(1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

(2) No amendments shall become effective until reviewed and approved by the Department.

(3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 1.5(4).)

## 9.0 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than $10.00 and not more than $250.00 together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

## 10.0 DEFINITIONS

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

1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

2) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

5) "BUILDING" - See STRUCTURE.

6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

9) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

12) “DECK” – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.

14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.

17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land,

divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads

18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.

20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- ✓ The overflow or rise of inland waters,
- ✓ The rapid accumulation or runoff of surface waters from any source,
- ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
- ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood

Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.

36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

38) "HISTORIC STRUCTURE" - Any structure that is either:

- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

- ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

- ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

- ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

44) “NAVD” or “NORTH AMERICAN VERTICAL DATUM” – Elevations referenced to mean sea level datum, 1988 adjustment.

45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.

46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it

includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.

52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

59) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.

61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

63) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.

66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

67) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

# CHAPTER 12 APPENDIX B

# EROSION CONTROL ORDINANCE

## 1.1 **AUTHORITY**

This ordinance is adopted under the authority granted by Sec. 62.2345 Stats., for cities.

## 1.2 **FINDINGS AND PURPOSE**

(1) FINDINGS. The City of New Holstein finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the state and this city.

(2) PURPOSE. It is the purpose of this ordinance to preserve the natural resources: To protect the quality of the waters of the state and the City of New Holstein; and to protect and promote the health, safety and welfare of the people, to the extent practicable by:

(a) Minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams and wetlands.

## 1.3 **APPLICABILITY OF ORDINANCE**

This ordinance applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the City of New Holstein and the public and private lands subject to extraterritorial review under ch. 236, Stats. All state funded or conducted construction is exempt from this ordinance.

Note: State funded or conducted construction activities must meet the requirements contained in the "State Plan for the Control of Construction Erosion and Storm water Runoff" (State plan), which contains similar requirements as contained in this model ordinance, as a minimum.

## 1.4 **DEFINITIONS**

(1) "AGRICULTURAL LAND USE" means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

(2) "COMMERICAL LAND USE" means use of land for the retail or wholesale sale of goods or services.

(3) "CONSTRUCTION SITE CONTROL MEASURE" means a control measure used to meet the requirements of 1.7(2) of this ordinance.

(4) "CONTROL MEASURE" means a practice or combination of practices to control erosion and attendant pollution.

(5) "CONTROL PLAN" means a written description or the number, locations, sizes, and other pertinent information of control measures designed to meet the requirements of this ordinance submitted by the applicant for review and approval by The Building Inspector.

(6) "EROSION" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

(7) "LAND DEVELOPING ACTIVITY" means the construction of buildings, roads, parking lots, paved storage areas and similar facilities.

(8) "LAND DISTURBING CONSTRUCTION ACTIVITY" means any manmade change of the land surface including removing vegetation cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.

(9) "LANDOWNER" means any person holding title to or having an interest in land.

(10) "LAND USER" means any person operation, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

(11) "RUNOFF" means the rainfall, snowmelt, or irrigation water flowing over the ground surface.

(12) "SET OF 1 YEAR DESIGN STORMS" means the following rain intensities and rain volumes or corresponding values specific to the community for the storm durations or 0.5, 1, 2, 3, 6, 12 and 24 hours that occur approximately once per year. [ Note: the following are typical characteristics of these one year storms for most of Wisconsin:

| storm duration (hours) | average rain intensity (inches/hour) | total total rain (inches) |
|---|---|---|
| 0 | 1.8 | 0.9 |
| 1 | 1.1 | 1.1 |
| 2 | 0.7 | 1.3 |
| 3 | 0.5 | 1.5 |
| 6 | 0.3 | 1.7 |
| 12 | 0.2 | 2.0 |
| 24 | 0.1 | 2.3] |

(13) "Site" means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

## 1.5 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES

All control measures required to comply with this ordinance shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the Building Inspector.

## 1.6 MAINTENANCE OF CONTROL MEASURES.

All sedimentation basins and other control measures necessary to meet the requirements of this ordinance shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

## 1.7 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT.

(1) APPLICABILITY. This section applies to the following sites of land development or land disturbing activities:

(a) Those requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats.

(b) Those requiring a certified survey approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.

(c) Those involving grading, removal or protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more;

(d) Those involving excavation or filling or a combination of excavation and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material;

(e) Those involving street, highway, road, or bridge construction, enlargement, relocation or reconstruction;

(f) Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more.

(2) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The following requirements shall be met on all sites described in sub. (1).

(a) Site dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upslope chambers, hydro-cyclones, swirl concentrators, or other appropriate controls designed and used to remove particle of 100 microns or greater for the highest dewatering pumping rate. If the

water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the Building Inspector. Water may not be discharged in a manner that causes erosion of the site receiving channels.

(b) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.

(c) Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways.

Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

(d) Drain inlet protection. All storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.

(e)Site erosion control. The following criteria (1 through 3) apply only to land development or land disturbing activities that result in runoff leaving the site.

(1) Canalized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in 1.7(2)(e) 3.c. Sheet flow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 ft/sec across the disturbed area for the set of one-year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channel. [Note: Soil and Conservation Service guidelines for allowable velocities in different types of channels should be followed.]

(2) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(3) Runoff from the entire disturbed area on the site shall be controlled by meeting either subpart. a. and b. or a. and c.

(a) All disturbed ground left inactive for 7 or more days shall be stabilized by seeding or siding (only available prior to September 15) or by mulching or covering, or other equivalent control measure.

(b) For sites with more than 10 acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% for the area draining to the basin and at least 3 feet of depth and

constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of 3 feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of 1-year design storms having durations from 0.5.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(c) For sites with less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

(4) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. If remaining for more than 7 days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than 7 days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than 7 days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

## 1.8 **PERMIT APPLICATION, CONTROL PLAN, AND PERMIT ISSUANCE.**

No landowner or land user may commence a land disturbance or land development activity subject to this ordinance without receiving prior approval of a control plan for the site and a permit from the Building Inspector. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this ordinance shall submit an application for a permit and a control plan and pay an application fee to the Building Inspector. By submitting an application, the applicant is authorizing the Building Inspector to enter the site to obtain information required for the review of the control plan.

(1) CONTENT OF THE CONTROL PLAN FOR LAND DISTURBING ACITIVITIES COVERING MORE THAN ONE ACRE.

(a) Existing site map. A map of existing site conditions on a scale of at least 1 inch equals 100 feet showing the site and immediately adjacent areas:

(1) Site boundaries and adjacent lands which accurately identify site location:

(2) Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site. [Note: The local unit of government should identify sensitive local waters that may need to be further addressed by the control plan.]

(3) 100 year floodplains, flood fringes and floodways;

(4) Location of the predominant soil types;

(5) Vegetative cover;

(6) Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;

(7) Locations and dimensions of utilities, structures, roads, highways, and paving; and

(8) Site topography at a contour interval not to exceed five feet.

(a) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes.

(b) Site construction plan. A site construction plan including:

(1) Locations and dimensions of all proposed land disturbing activities;

(2) Locations and dimensions of all temporary soil or dirt stockpiles;

(3) Locations and dimensions of all construction site management control measures necessary to meet the requirements of this ordinance;

(4) Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this ordinance; and

(5) Provisions for maintenance of the construction site control measure during construction.

(2) CONTENT OF CONTROL PLAN STATEMENT FOR LAND DISTURBING ACTIVITIES COVERING LESS ONE ACRE, BUT MEETING THE APPLICABILITY REQUIREMENTS STATED IN 1.7 (1).

CHAPTER 12, APPENDIX C

SHORELAND-WETLAND ZONING ORDINANCE

## 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE AND TITLE

### 1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in sections 61.35 and 61.351 for villages or 62.23 and 62.231 for cities and 87.30 and 144.26, Wis. Stats.

### 1.2 FINDING OF FACT AND PURPOSE

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

(1) Promote the public health, safety, convenience and general welfare;

(2) Maintain the storm and flood water storage capacity of wetlands;

(3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

(4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;

(5) Prohibit certain uses detrimental to the shoreland-wetland area; and

(6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

## 2.0 GENERAL PROVISIONS

### 2.1 COMPLIANCE

The use of wetlands and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 4.0 of this ordinance, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

## 2.2 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if section 13.48(13), Wis. Stat., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when section 30.12(4)(a), Wis. Stats., applies.

## 2.3 ABROGATION AND GREATER RESTRICTIONS

2.31 This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under sections 61.35, 62.23, or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

2.32 This ordinance is not intended to repeal, abrogate or impair existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

## 2.4 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any others powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the chapter NR 117 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

## 2.5 SEVERABILITY

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

## 2.6 ANNEXED AREAS

The Calumet County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's

official zoning map. The Calumet County shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator.

## 3.0 SHORELAND-WETLAND ZONING DISTRICT

## 3.1 SHORELAND-WETLAND ZONING MAPS

The following maps are hereby adopted and made part of this ordinance and are on file in the office of the municipal Clerk:

(1) Wisconsin Wetland Inventory maps stamped "FINAL" on May 23, 1994.

(2) Floodplain zoning maps titled Floodway Flood Boundary and Floodway Map dated July 2, 1981.

(3) United States Geological Survey Maps

## 3.2 DISTRICT BOUNDARIES

3.21 The shoreland-wetland zoning district includes all wetlands in the municipality which are five acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance and which are:

(1) Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.

(2) Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain zoning maps adopted in section 3.1(2) shall be used to determine the extent of floodplain areas.

3.22 Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.

3.23 When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district

office of the Department to determine if the shoreland-wetland district boundary as mapped, is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in section 3.24 and 3.25, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

3.24 FILLED WETLANDS

Wetlands which are filled prior to May 23, 1994, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

3.25 WETLANDS LANDWARD OF A BULKHEAD LINE

Wetlands located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982 under s. 30.11, Stats. are not subject to this ordinance.

## 3.3 **PERMITTED USES**

The following uses are permitted subject to the provisions of chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

3.31 Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:

(1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;

(2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;

(3) The practice of silviculture, including the planting, thinning and harvesting of timber;

(4) The pasturing of livestock;

(5) The cultivation of agricultural crops; and

(6) The construction and maintenance of duck blinds.

3.32 Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:

(1) The practice of silviculture, including temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that

would have an adverse impact on the conduct of silvicultural activities if not corrected;

(2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;

(3) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;

(4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;

(5) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

(6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in section 6.13 of this ordinance; and

(7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

3.33 Uses which are allowed upon the issuance of a permit and which may include wetland alterations only to the extent specifically provided below:

(1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 3.3, of this ordinance, provided that:

(a) The road cannot, as a practical matter, be located outside the wetland;

(b) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in section 6.13 of this ordinance;

(c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

(d) Road construction activities are carried out in the immediate area of the roadbed only; and

(e) Any wetland alteration must be necessary for the construction or maintenance of the road.

(2) The construction and maintenance of nonresidential buildings provided that:

(a) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;

(b) The building cannot, as a practical matter, be located outside the wetland;

(c) The building does not exceed 500 square feet in floor area; and

(d) Only limited filling and excavating necessary to provide structural support for the building is allowed.

(3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific area, game refuges and closed area, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

(a) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;

(b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;

(c) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in section 3.33(1) of this ordinance; and

(d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad line provided that:

(a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

(b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

(c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in section 6.13 of this ordinance.

## 3.4 PROHIBITED USES

3.41 Any use not listed in section 3.3 of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 6.0 of this ordinance.

3.42 The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

## 4.0 NONCONFORMING STRUCTURES AND USES

The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, too effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

4.2 The shoreland-wetland provisions of this ordinance authorized by s. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.

4.3 If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.

4.4 Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under sections 61.351 or 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.

4.5 The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of section 30.212, Wis. Stats.

4.6 Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

## 5.0 ADMINISTRATIVE PROVISIONS

## 5.1 **ZONING ADMINISTRATOR**

The Building Inspector is appointed zoning administrator for the purpose of administering and enforcing this ordinance.

The zoning administrator shall have the following duties and powers:

5.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeals forms.

5.12 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.

5.13 Keep records of all permits issued, inspections made, work approved and other official actions.

5.14 Have access to any structure or premises between the hours 8a.m. and 6 p.m. for the purpose of performing these duties.

5.15 Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department

5.16 Investigate and report violations of this ordinance to the appropriate district office of the Department.

## 5.2 **ZONING PERMITS**

### 5.21 WHEN REQUIRED

Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 8.2(6) of this ordinance, or any change in the use of an existing building or structure is initiated.

### 5.22 APPLICATION

An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulation, the follow information:

(1) GENERAL INFORMATION

(a) Name, address, and telephone number of applicant, property owner and contractor, where applicable.

(b) Legal description of the property and a general description of the proposed use or development.

(c) Whether or not a private water supply or sewage system is to be installed.

(2) SITE DEVELOPMENT PLAN

The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

(a) Dimensions and area of the lot;

(b) Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;

(c) Description of any existing or proposed on-site sewage systems or private water supply systems;

(d) Location of the ordinary high-water mark of any abutting navigable waterways;

(e) Boundaries of all wetlands;

(f) Existing and proposed topographic and drainage features as determined from floodplain zoning maps;

(h) Location of existing or future access roads; and

(i) Specifications and dimensions for areas of proposed wetland alteration.

5.23 EXPIRATION

All permits issued under the authority of this ordinance shall expire 6 months from the date of issuance.

## 5.3 CERTIFICATES OF COMPLIANCE

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

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of the ordinance.

(2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.

(3) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning or conditional use permit,

providing the building or premises and proposed use thereof conform with all the provisions of this ordinance.

5.32 The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing body.

5.33 Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

## 5.4 CONDITIONAL USE PERMITS

### 5.41 APPLICATION

Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the Board of Appeals following the procedures in sections 5.82, 5.83, and 5.84 of this ordinance.

### 5.42 CONDITIONS

Upon consideration of the permit application and the standards applicable to the conditional uses designated in section 3.33 of this ordinance, the Board of Appeals shall attach such conditions to a conditional use permit in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance listed in section 1.2. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

## 5.5 FEES

The municipal governing body may by resolution, adapt fees for the following:

(1) Zoning permits.

(2) Certificates of compliance.

(3) Public hearings.

(4) Legal notice publications.

(5) Conditional use permits.

(6) Rezoning petitions.

## 5.6 **RECORDING**

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.

## 5.7 **REVOCATION**

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

## 5.8 **BOARD OF APPEALS**

The city mayor or village president shall appoint a Board of Appeals under section 62.34(7)(e), Wis. Stats., consisting of five members subject to confirmation by the municipal governing body. The Board of Appeals shall adopt rules for the conduct of its business as required by section 63.23(7)(e)3., Wis. Stats.

### 5.81 POWERS AND DUTIES

The Board of 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 ordinance.

(2) Shall hear and decide applications for conditional use permits.

(3) May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:

a) That literal enforcement of terms of the ordinance 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 ordinance and;

d) That such variance will not grant or increase any use of property which is prohibited in the zoning district.

5.82 APPEALS TO THE BOARD

Appeals to the Board of 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 with reasonable time, as provided by the rules of the Board by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.

5.83 PUBLIC HEARINGS

(1) Before making a decision on an appeal or application, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a class 2 notice under ch. 985, Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may present testimony in person, by agent or by attorney.

(2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

5.84 DECISIONS

(1) The final disposition of an appeal or application for a conditional use permit before the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's 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 conditional use.

(2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

## 6.0 **AMENDING SHORELAND-WETLAND ZONING REGULATIONS**

6.1 The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of section 62.23(7)(d)2., Wis. Stats., NR 177, Wis. Adm. Code, and the following:

6.11 A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within 5 days of the submission of the proposed amendment to the municipal planning agency;

6.12 All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held after class II notice as required by section 62.23(7)(d)2., Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.

6.13 In order to insure that this ordinance will remain consistent with the shoreland protection objectives of section 144.46, Wis. Stats., the municipal governing body may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

(1) Storm and flood water storage capacity;

(2) Maintenance of dry season stream flow or the discharge of ground water to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through wetland;

(3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

(4) Shoreline protection against erosion;

(5) Fish spawning, breeding, nursery or feeding grounds;

(6) Wildlife habitat; or

(7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

6.14 Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in section 6.13, of this ordinance, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.

6.15 The appropriate district office of the Department shall be provided with:

(1) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within 10 days after the submission of those recommendations to the municipal governing body.

(2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

6.16 If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in section 6.13, of this ordinance, that proposed amendment, if approved by the municipal governing body, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the Department, as required by section 6.15(2) of this ordinance. If within the 30 day period, the Department notifies the municipality that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided by sections 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6) or 61.351(6), Wis. Stats., is completed or otherwise terminated.

## 7.0 **ENFORCEMENT AND PENALTIES**

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator shall refer violations to the municipal planning agency and the district attorney, corporation counsel or municipal attorney who shall prosecute such violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than $10.00 nor more than $250.00 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to section 87.30(2), Wis. Stats.

## 8.0 **DEFINITIONS**

8.1 For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified, shall be measured horizontally.

8.2 The following terms used in this ordinance mean:

(1) "Accessory structure or use" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use.

(2) "Boathouse" as defined in section 30.121(1), Wis. Stats. means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.

(3) "Class 2 public notice" means publication of a public hearing notice under chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.

(4) "Conditional use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.

(5) "Department" means the Wisconsin Department of Natural Resources.

(6) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(7) "Drainage system" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(8) "Environmental control facility" means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(9) "Fixed houseboat" as defined in section 30.12(1), Wis. Stats., means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(10) "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under section 144.26(2)(d), Wis. Stats., not withstanding any other provision of law or administration rule promulgated thereunder, shoreland ordinances required under sections 61.351 or 62.221, Wis. Stats., and chapter NR 117, Wis. Adm. code, do not apply to lands adjacent to farm drainage ditches if;

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

(c) Such lands are maintained in nonstructural agricultural use.

"Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492(1952) and DeGaynor and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons."

(11) “Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(12) "Planning agency" means the municipal plan commission created under section 62.23(1), Wis. Stats., a board of public land commissioners or a committee of the municipality's governing body which acts on matters pertaining to planning and zoning.

(13) "Shorelands" means lands within the following distance from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, which-ever distance is greater.

(14) "Shoreland-wetland district" means the zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands on the wetlands inventory maps which have been adopted and made a part of this ordinance.

(15) "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

(16) "Variance" means an authorization granted by the Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

(17) "Wetlands" means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and "Wetland alteration" means any filling, flooding, draining, dredging, ditching, tiling, excavating,

temporary water level stabilization measures or dike and dam construction in a wetland area.(Created #319)

# CHAPTER 12, APPENDIX D

# HISTORIC PRESERVATION ORDINANCE

## I. PURPOSE AND INTENT

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation, and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

A. Effect and accomplish the protection, enhancement, and preservation of such improvements, sites and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history.

B. Safeguard the city's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.

C. Stabilize and improve property values, and enhance the visual and aesthetic character of the City.

D. Protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

## II. DEFINITIONS

The definitions shall be as follows:

A. "Certificate of Appropriateness" means the certificate issued by the commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.

B. "Commission" means the Historic Preservation Commission or Commission created under this Section.

C. "Historic district" is an area of the city, designated under the provisions of this chapter by the Common Council on recommendation of the commission, consisting of a contiguous group of historic sites designated together for the historic significance that they convey collectively.

D. "Historic site" means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an improvement parcel, part thereof, on which is situated a historic structure and any abutting improvement parcel, or part there of, used as and constituting part of the premises on which the historic structure is situated.

E. "Historic structure" means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state, or nation and which has been designated as a historic structure pursuant to the provisions of this chapter.

F. "Improvement" means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including, streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

## III. HISTORIC PRESERVATION COMMISSION COMPOSITION

A. Historic Preservation Commission is hereby created, consisting of seven (7) members. Of the membership, two shall be alderpersons; and five shall be citizen members, with one citizen being a member of the New Holstein Historical Society. One member shall either be an architect or builder with experience working with historic resources. The Mayor shall appoint the commission subject to confirmation by the Common Council.

B. Historic Preservation Commission members terms shall be three years in length and terms shall start in staggered years.

## IV. HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA

A. For purposes of this ordinance, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City such as historic structure, sites, or districts which:

1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or

2. Are identified with historic personages or with important events in national, state or local history; or

3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous material or craftsmanship; or

4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or

5. Have yielded, or may be likely to yield, information important to prehistory or history.

B. The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.

## V. **POWERS AND DUTIES**

### A. **Designation**

The Commission shall have the power, subject to Section VI, to designate historic structures and historic sites and to recommend designation of historic districts within the city limits. Such designations shall be made based on Section IV. Historic districts, as well as individual designations, shall be approved by the Common Council. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this ordinance.

### B. **Standards for Alteration, Demolition, and New Construction**

1. No owner or person in charge of a historic structure, historic site, or structure within a historic district shall alter or demolish any part of the exterior of such property or permit such work to be performed upon such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. The Certificate of Appropriateness shall only be required for work needing an exterior building permit. Unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.

2. No owner or person in charge of a historic structure, historic site, or structure within a historic district shall construct any new improvement upon such designated property or properties or cause such work to be done unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. The Certificate of Appropriateness shall only be required for work needing an exterior building permit. Unless such certificate has been granted by the commission, the building inspector shall not issue a permit for such work.

3. Upon filing of any application for a Certificate of Appropriateness with the commission, the commission shall approve the application unless:

a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done:

b. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to

the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;

d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;

e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

4. If the commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The commission shall make this decision within forty-five (45) days of the filing of the application.

5. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

6. Ordinary maintenance and repairs may be undertaken without a Certificate of appropriateness provided that the work involves repairs to existing features of a historic structure or identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

### C. **Appeals**

Should the commission find that the proposed work does not meet the applicable standards in section B.2., the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the commission fails to issue a Certificate of Appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of the ordinance.

### D. **Recognition of Historic Structures, Sites and Districts**

After a property has been designated according to the provisions of this Chapter, the city, in cooperation with the property owner may cause a plaque to be prepared and installed on the property at city expense, declaring the property to be historic.

## VI. **PROCEDURES**

### A. **Designation and Recission of Designation**

1. The Commission may, after notice and public hearing, designate historic structures and historic sites, or rescind such designation or recommendation, after application of the criteria in Section IV above. At least ten (10) days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.

2. The Commission shall then conduct such public hearing and, in addition to the notified person, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a historic structure, or a historic site, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector, Plan Commission, and the City Assessor. The Commission shall cause the designation or rescission to be recorded, at City expense, in the County Register of Deeds Office.

3. Rescission of local landmark designation is only allowed if the property has lost the characteristics for which it was listed, or if it can be demonstrated that the designation is causing an economic hardship for the property owner.

B. **Creation of Historic District**

1. For preservation purposes, the Historic Preservation Commission may select geographically defined areas within the City to be designated as Historic Districts and shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City, after application of the criteria in Section IV above. For each designated historic district, a Historic Preservation Plan shall be prepared that includes a cultural and architectural analysis of the district that supports the designation, a statement of preservation objectives, and guidance for development proposals, capital improvements, and implementation to ensure preservation is integrated into both long-range planning and current development projects.

2. **Review and Adoption Procedure**

a. Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Alderpersons of the Aldermanic District or Districts in which the Historic District is located, and the owner of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in whole or part within two hundred (200) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Historic

Preservation Commission shall vote to recommend, reject or withhold action on the plan.

b. The Common Council. The Common Council, upon receipt of the recommendation from the Historic Preservation Commission shall either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

## VII. **INTERIM CONTROL**

No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission.

## VIII. **SEPARABILITY**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.(Cr. #358) (Ord. 667)