

**VILLAGE  
OF  
THIENSVILLE  
  
ZONING CODE**



**NOVEMBER 1, 2011**

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**CHAPTER 17**  
**ZONING ORDINANCE FOR THE**  
**VILLAGE OF THIENSVILLE, WISCONSIN**

**SECTION 17.0100 INTRODUCTION**

**17.0101 AUTHORITY**

This Ordinance is adopted under the authority granted by Section 61.35, 61.351, 62.23(7), 87.30 and 144.26 of the Wisconsin Statutes as amended.

**17.0102 TITLE**

This Ordinance shall be known as, referred to, and cited as the "ZONING ORDINANCE, VILLAGE OF THIENSVILLE, WISCONSIN" and is herein after referred to as the "Ordinance."

**17.0103 PURPOSE**

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the Village of Thiensville, Wisconsin.

**17.0104 INTENT**

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands and waters; and to:

- A. Regulate Lot Coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- B. Regulate Population Density and Distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities;
- C. Regulate Parking, Loading and Access so as to lessen congestion in and promote the safety and efficiency of streets and high ways;
- D. Secure Safety from fire, flooding, pollution, contamination, and other dangers;
- E. Stabilize and Protect existing and potential property values;
- F. Preserve and Protect the beauty of the Village of Thiensville;
- G. Prevent and Control Erosion, sedimentation, and other pollution of the surface and subsurface waters;
- H. Prevent Flood Damages to persons and property;
- I. Minimize Expenditures for flood relief and flood control projects;
- J. Further the Maintenance of safe and healthful water conditions;
- K. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- L. Provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.
- M. To implement the policies and proposals of the Village of Thiensville Land Use Plan prepared and adopted by the Plan Commission in accordance with Section 62.23 and 61.35 of the Wisconsin Statutes, and other regional or water shed plans;
- N. To preserve and enhance the community's history, heritage and character;
- O. To ensure that development occurs at a pace consistent with the Village's financial capability to provide municipal services;
- P. To encourage balanced economic development;

- Q. To establish administrative procedures whereby the Village may objectively and equitably phase development based upon its fiscal and environmental impacts upon the surrounding area and the Village as a whole.

**17.0105 ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

**17.0106 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 Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village of Thiensville.

**17.0107 SEVERABILITY AND NON-LIABILITY**

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

**17.0108 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection provided by the Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by manmade or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this Ordinance does not imply that areas outside of the delineated floodplain or land uses permitted within the floodplain will be totally free from flooding and the associated flood damages. Nor shall this Ordinance create a liability on the part of, or a cause of action against, the Village of Thiensville or any office or employee thereof for any flood damages that may result from reliance on this Ordinance.

**17.0109 REPEAL**

All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

**SECTION 17.0200 GENERAL PROVISIONS**

**17.0201 JURISDICTION**

The jurisdiction of this Ordinance shall apply to all structures, lands, water, and air within the corporate limits of the Village of Thiensville.

**17.0202 COMPLIANCE**

No structure, land, water, or air shall hereafter be used or developed; and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or substantially improved without full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations.

**17.0203 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 required permits. State agencies are required to comply if Section 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Section 30.12(4)(a) of the Wisconsin Statutes applies.

**17.0204 USE REGULATIONS**

Only the following uses and their essential services may be allowed in any district.

- A. Principal Uses specified for a district.
- B. Accessory Uses and structures are permitted in any district but not until their principal structure is present or under construction.
- C. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Village Plan Commission in accordance with Section 17.1205. When a use is classified as a Conditional Use at the date of adoption of this Ordinance, it shall be considered a legal use without further action of the Village. Changes to or substitution of Conditional Uses shall be subject to review and approval by the Plan Commission in accordance with Section 17.1205.
- D. Uses Not Specified in this Ordinance and which are found to be similar in character to principal uses permitted in the district may be permitted by the Plan Commission.
- E. Temporary Uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Plan Commission as a conditional use after review, public hearing, and approval in accordance with Section 17.1205 of this Ordinance.
- F. Performance Standards listed in Section 17.0900 shall be complied with by all uses in all districts.

**17.0205 SITE REGULATIONS**

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, or low bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Village Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an

opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Village Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

- A. All Lots shall abut upon a public street or other approved way, and each lot shall have a minimum frontage of 40 feet.
- B. All Principal Structures shall be located on a lot; and only one (1) principal structure shall be located, erected or moved onto a lot in the single-family and two-family residential districts. The Plan Commission may permit more than one (1) structure per lot in other districts where more than one (1) principal structure is needed for the orderly development of the parcel. When additional structures are permitted, the Plan Commission may allow common wall construction on the lot or access adjacent lots or may impose additional yard requirements, landscaping requirements, or parking requirements, or may require a minimum separation distance between principal buildings.
- C. No Zoning Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- D. A Buffer Yard shall be created and maintained around all business districts created after the effective date of this Ordinance. Buffer yards created prior to the effective date of this Ordinance shall be maintained, at a minimum, in their existing condition. Buffer yards shall occupy a minimum of 10 percent of the area of the lot on which they are located and shall be not less than 10 feet in width. Buffer yards shall screen a business from adjoining lands in such a manner that:
  - (1) If the buffer yard is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such varieties as to provide adequate visual screening within no more than 2 years and during all seasons of the year.
  - (2) Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such fence or wall to create an attractive view from the residential side. Any wall or fence shall be not less than 4 feet or more than 6 feet in height.
  - (3) Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare. All landscaping shall be maintained by the owner or operator to the satisfaction of the Plan Commission.
  - (4) No signs shall be permitted on or in any part of the buffer yard.

**17.0206**

**REDUCTION OR JOINT USE**

No lot, yard, parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

## SECTION 17.0300 ZONING DISTRICTS

### 17.0301 ESTABLISHMENT

For the purpose of this Ordinance, the Village of Thiensville is hereby divided into the following 12 basic zoning districts and 3 overlay districts:

- R-1 Single-Family Residential District
- R-2 Single-Family Residential District
- R-3 Two-Family Residential District
- R-4 Multiple-Family Residential District
- R-5 Multiple-Family Residential District
- B-1 Central Business District
- B-2 Shopping Center Business District
- B-3 Office and Professional Business District
- B-4 Highway Business District
- I-1 Institutional District
- P-1 Park District
- FW Floodway District
- FFO Floodplain Fringe Overlay District
- PDO Planned Development Overlay District
- SWO Shoreland Wetland Overlay District

- A. Boundaries of these Districts are hereby established as shown on the map entitled "Zoning Map-Village of Thiensville, Wisconsin, dated October 1, 2000 which map accompanies and is hereby made a part of this Ordinance.
- B. The District Boundaries in all districts except the FW Floodway District, the FFO Floodplain Fringe Overlay District, and the SWO Shoreland Wetland Overlay District shall be construed to follow: corporate limits; U. S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended; unless otherwise noted on the Zoning Map.
- C. Boundaries of the Floodland Districts are shown on the map entitled, Flood Insurance Rate Map, Ozaukee County, Wisconsin, and Incorporated Areas, (Panel 79 of 9 and Panel 80 of 95) dated March 18, 1991, which maps accompany and are herewith made a part of this Ordinance. The boundaries of the FW floodway district shall be determined by use of the scale contained on the Maps. The boundaries of the FFO floodplain fringe overlay district shall be determined by the floodplain elevations referenced on the Flood Insurance Rate Maps. The flood stages, under floodway conditions, contained on the Supplementary Floodland Zoning Maps were developed from technical data contained in the Flood Insurance Study-Ozaukee County Wisconsin and Incorporated Areas, published by the Federal Emergency Management Agency (FEMA), and dated March 18, 1991. Where a conflict exists between the floodland limits as shown on the Flood Insurance Rate Maps and actual field conditions, the elevations from the 100-year recurrence interval flood profile shall be the governing factor in locating the regulatory floodland limits.
- D. Boundaries of the SWO Shoreland Wetland Overlay District are based on the Wisconsin Wetland Inventory Map for the Village of Thiensville, dated January 24, 1990, and stamped "FINAL", and include, but are not limited to, all shoreland wetlands, five acres or greater in area shown on that map.
- E. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

**17.0302**

**ZONING MAP**

A Certified copy of the Zoning Map shall be adopted and approved with the text as part of this Ordinance and shall be available to the public in the office of the Village Clerk.

**17.0303**

**R-1 SINGLE-FAMILY RESIDENCE DISTRICT**

The R-1 Residence District is intended to provide for single-family residential development, at densities not to exceed 3.2 dwelling units per net acre, served by municipal sanitary sewer facilities.

**A. Permitted Principal Uses**

- (1) Single-family dwellings.
- (2) Essential services.
- (3) Community living arrangements for eight (8) or fewer persons, subject to limitations set forth in Wisconsin Statutes 62.23 15(i).

**B. Permitted accessory Uses**

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations are subject to the following:
  - a. General Conditions. Home occupations shall comply with the following general conditions:
    - 1) The total area devoted to such home occupations shall not exceed twenty five percent of the gross area of the dwelling unit involved and shall be located within a principal structure.
    - 2) Offensive noise, vibration, dust, odors, pollution or interference with radio or television reception shall not be permitted to emanate from the dwelling.
    - 3) Persons operating a home occupation shall employ no more than one (1) nonresident employee in the home occupation.
    - 4) Materials used in or produced by an authorized home occupation may not be stored or displayed outside or be displayed so as to be visible from outside the premises.
    - 5) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with the normal traffic pattern of the neighborhood.
    - 6) All authorized home occupations shall meet fire and building safety requirements.
    - 7) Persons conducting home occupations must furnish such information as required by municipal officials with respect to procedures and processes, equipment, materials, chemicals and any other items utilized in the home occupation.
    - 8) A home occupation includes uses such as babysitting, sewing, dressmaking, laundering and crafts, but does not include display of goods or retail sales, nor any occupation such as dance schools, real estate brokerage or photographic studios.
- (4) Satellite dish antennas located on the roof of the principal structures or in the rear yard.
- (5) Roof mounted solar collectors.
- (6) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Utility substations.
- (2) Solar collectors erected as an accessory structure.
- (3) Professional home offices; residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, lawyers, professional engineers, registered land surveyors, real estate agents, insurance brokers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one-half the area of only one floor of the residence and no more than 2 non-resident individuals are employed. The principal use of the structure must remain residential in nature. Professional home offices are subject to the general conditions listed under B(3).

**D. Lot Area and Width**

- (1) Lots shall be a minimum of 13,500 square feet in area and shall be not less than 95 feet in width.

**E. Building Height and Area**

- (1) No principal building or part of a principal building shall exceed 35 feet in height. The total floor area of a dwelling shall be not less than 1,200 square feet.

**F. Yards**

- (1) There shall be a minimum building setback of 40 feet from the street right-of-way.
- (2) There shall be a side yard on each side of the principal structure not less than 10 feet in width
- (3) There shall be a rear yard of not less than 25 feet.

**17.0304**

**R-2 SINGLE-FAMILY RESIDENCE DISTRICT**

The R-2 Residence District is intended to provide for single-family residential development, at densities not to exceed 6.4 dwelling units per net acre, served by municipal sanitary sewer facilities.

**A. Permitted Principal Uses**

- (1) Single-family dwelling.
- (2) Essential services.
- (3) Community living arrangements for eight (8) or fewer persons, subject to limitations set forth in Wisconsin Statutes 62.23 15(i).

**B. Permitted Accessory Uses**

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations are subject to the following:
  - a. General Conditions. Home occupations shall comply with the following conditions:
    - 1) The total area devoted to such home occupations shall not exceed twenty five percent of the gross area of the dwelling unit involved and shall be located within a principal structure.
    - 2) Offensive noise, vibration, dust, odors, pollution or interference with radio or television reception shall not be permitted to emanate from the dwelling.
    - 3) Persons operating a home occupation shall employ no more than one (1) nonresident employee in the home occupation.

- 4) Materials used in or produced by an authorized home occupation may not be stored or displayed outside or be displayed so as to be visible from outside the premises.
  - 5) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with the normal traffic pattern of the neighborhood.
  - 6) All authorized home occupations shall meet fire and building safety requirements.
  - 7) Persons conducting home occupations must furnish such information as required by municipal officials with respect to procedures and processes, equipment, materials, chemicals and any other items utilized in the home occupation.
  - 8) A home occupation includes uses such as babysitting, sewing, dressmaking, laundering and crafts but does not include display of goods or retail sales, nor any occupation such as dance schools, real estate brokerage or photographic studios.
- ( 4 ) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
  - ( 5 ) Roof mounted solar collectors.
  - ( 6 ) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- ( 1 ) Boarding houses.
- ( 2 ) Utility substations.
- ( 3 ) Professional home offices; residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, lawyers, professional engineers, registered land surveyors, real estate agents, insurance brokers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one-half the area of only one floor of the residence and no more than 2 non-resident individuals are employed. The principal use of the structure must remain residential in nature. Professional home offices are subject to the general conditions listed under B(3).
- ( 4 ) Solar collectors erected as an accessory structure.

**D. Lot Area and Width**

- (1) Lots shall have a minimum area of 6,800 square feet in area and shall be not less than 60 feet in width.

**E. Building Height and Area**

- ( 1 ) No principal building or part of a principal building shall exceed 35 feet in height. The total floor area of a residential dwelling shall be not less than 1,000 square feet.

**F. Yards**

- (1) There shall be a minimum building setback of 25 feet from the street right-of-way.
- ( 2 ) There shall be a side yard on each side of the principal structure not less than five (5) feet in width.

- (3) There shall be a rear yard of not less than 25 feet.-

**17.0305**

**R-3 TWO-FAMILY RESIDENCE DISTRICT**

The R-3 Residence District is intended to provide for two-family residential development, at densities not to exceed 5.8 dwelling units per net acre, served by municipal sanitary sewer facilities.

**A. Permitted Principal Uses**

- (1) Two-family dwellings.
- (2) Essential services.
- (3) Community living arrangements which have a capacity for eight (8) or fewer persons, subject to the limitations set forth in Section 62.23 15(i) of the Wisconsin Statutes.

**B. Permitted Accessory Uses**

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations are subject to the following:
  - a. General Conditions. Home occupations shall comply with the following conditions:
    - 1) The total area devoted to such home occupations shall not exceed twenty five percent of the gross area of the dwelling unit involved and shall be located within a principal structure.
    - 2) Offensive noise, vibration, dust, odors, pollution or interference with radio or television reception shall not be permitted to emanate from the dwelling.
    - 3) Persons operating a home occupation shall employ no more than one (1) nonresident employee in the home occupation.
    - 4) Materials used in or produced by an authorized home occupation may not be stored or displayed outside or be displayed so as to be visible from outside the premises.
    - 5) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with the normal traffic pattern of the neighborhood.
    - 6) All authorized home occupations shall meet fire and building safety requirements.
  - 7) Persons conducting home occupations must furnish such information as required by municipal officials with respect to procedures and processes, equipment, materials, chemicals and any other items utilized in the home occupation.
  - 8) A home occupation includes uses such as babysitting, sewing, dressmaking, laundering and crafts but does not include display of goods or retail sales, nor any occupation such as dance schools, real estate brokerage or photographic studios.
- (4) Satellite dish antennas located on the roof of the principal structure or the rear yard.
- (5) Roof-mounted solar collectors.

- (6) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Boarding houses.
- (2) Utility substations.
- (3) Professional home offices; residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, lawyers, professional engineers, registered land surveyors, real estate agents, insurance brokers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one-half the area of only one floor of the residence and no more than 2 non-resident individuals are employed. The principal use of the structure must remain residential in nature. Professional home offices are subject to the general conditions listed under B(3).
- (4) Solar collectors erected as an accessory structure.

**D. Lot Area and Width**

- (1) Lots shall have a minimum of 15,000 square feet and shall be not less than 100 feet in width.

**E. Building Height and Area**

- (1) No principal building or parts of a principal building shall exceed 35 feet in height. The total floor area of a residential dwelling shall be not less than 1,000 square feet per dwelling unit.

**F. Yards**

- (1) There shall be a minimum building setback of 40 feet from the street right-of-way.
- (2) There shall be a side yard on each side of the principal structure not less than 10 feet in width.
- (3) There shall be a rear yard of not less than 25 feet.

17.0306

**R-4 MULTIPLE-FAMILY RESIDENCE DISTRICT**

The R-4 Residence District is intended to provide for multiple family residential development in structures housing 8 dwelling units or less, at densities not to exceed 11.5 dwelling units per net acre, served by municipal sanitary sewer facilities.

**A. Permitted Principal Uses**

- (1) Two-family dwellings.
- (2) Multiple-family dwellings not to exceed 8 dwelling units per structure.
- (3) Essential services.
- (4) Community living arrangements that have a capacity for eight (8) or fewer persons, subject to the limitations set forth in Section 62.23(15)(i) of the Wisconsin Statutes.

**B. Permitted Accessory Uses**

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
- (4) Roof-mounted solar collectors.
- (5) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Housing for the elderly, not to exceed 22 units per net acre.
- (2) Boarding Houses.
- (3) Utility substations.

**D. Lot Area and Width**

- (1) Lots shall have the minimum of the larger of 15,000 square feet in area or 3,800 square feet per unit.
- (2) Lots shall not be less than 100 feet in width.

**E. Building Height and Area**

- (1) No principal building or part of a principal building shall exceed 35 feet in height. Efficiency and one bedroom dwelling units shall provide a living area of not less than 900 square feet per unit in the Town Center area. All other areas zoned R-4 must provide not less than 525 square feet per unit. Two bedroom or larger dwelling units shall provide a living area of not less than 675 square feet per unit, except in the Town Center area, where the square feet per unit must be 1,200 square feet.

**F. Yards**

- (1) There shall be a minimum building setback of 40 feet from the street right-of-way.
- (2) There shall be a side yard on each side of the principal structure not less than 15 feet in width.
- (3) There shall be a rear yard of not less than 25 feet.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for multiple family use shall, before a building permit is issued, present detailed site plans pertaining to the proposed structure to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208, which will approve said plans only after determining that the proposed building will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0307**

**R-5 MULTIPLE-FAMILY RESIDENCE DISTRICT**

The R-5 Residence District is intended to provide for general multiple family residential development, at densities not to exceed 14.0 dwelling units per net acre served by municipal sanitary sewer facilities.

**A. Permitted Principal Uses**

- (1) Multiple family dwellings not to exceed 12 dwelling units per structure.
- (2) Essential services.
- (3) Community living arrangements that have a capacity for eight (8) or fewer persons, subject to the limitations set forth in Section 62.23(15)(i) of the Wisconsin Statutes.

**B. Permitted Accessory Uses**

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Satellite dish antennas located on the roof of the principal structure or the rear yard.
- (4) Roof mounted solar collectors.
- (5) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Housing for the elderly, provided that the density of such housing shall not exceed 22 units per acre.
- (2) Boarding houses.
- (3) Utility substations.

**D. Lot Area and Width**

- (1) Lots shall have the minimum of the larger of 15,000 square feet in area or 3,800 square feet per unit.
- (2) Lots shall not be less than 100 feet in width.

**E. Building Height and Area**

- (1) No principal building or part of a principal building shall exceed 40 feet in height. Efficiency and one bedroom dwelling units shall provide a living area of not less than 900 square feet per units in the Town Center area. All other areas zoned R-5 must provide not less than 525 square feet per unit. Two-bedroom or larger dwelling units shall provide a living area of not less than 675 square feet per unit, except in the Town Center area, where the square feet per unit must be 1,200 square feet.

**F. Yards**

- (1) There shall be a minimum building setback of 25 feet from the street right-of-way.
- (2) There shall be a side yard on each side of the principal structure not less than 15 feet in width.
- (3) There shall be a rear yard of not less than 25 feet.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for multiple-family use shall, before a building permit is issued, present detailed site plans pertaining to the proposed structure to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208, which will approve said plans only after determining that the proposed building will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0308**

**B-1 CENTRAL BUSINESS DISTRICT**

The B-1 Business District is intended to provide for the orderly appropriate regulations to ensure the compatibility of the diverse uses typical of the "downtown" area without inhibiting the potential for maximum development of commercial, cultural, entertainment, and other urban activities which contribute to its role as the "heart" of the Village. This district is intended to enhance and promote traditional design elements as stated in Section 17.1210 and the Village's Architectural Guideline. This district is also encouraging the development of businesses adjacent to the right-of-way with parking located behind existing and proposed structures. One hundred percent of the floor area of the first floor of buildings in the B-1 District shall be used for commercial use only.

**A. Permitted Uses:**

- (1) Antique and collectors' stores.
- (2) Art galleries.
- (3) Bakeries.
- (4) Banks, savings and loan associations, and other financial institutions.
- (5) Barber shops.
- (6) Bars and taverns.
- (7) Beauty shops.
- (8) Book or stationery stores.
- (9) Business offices.
- (10) Camera and photographic supply stores.
- (11) Clinics.

- (12) Clothing stores.
- (13) Commercial daycare centers.
- (14) Confectioneries.
- (15) Delicatessens.
- (16) Dental clinics.
- (17) Department stores.
- (18) Drug stores.
- (19) Electronic equipment sales, service and repair.
- (20) Fish markets.
- (21) Florists.
- (22) Fruit stores.
- (23) Furniture stores.
- (24) Furriers and fur apparel.
- (25) Gift stores.
- (26) Hardware stores.
- (27) Hobby and craft stores.
- (28) Hotels.
- (29) Insurance sales offices.
- (30) Interior decorator/design.
- (31) Jewelry stores.
- (32) Law offices.
- (33) Medical clinics.
- (34) Music stores.
- (35) Newspaper and magazine stores.
- (36) Office supplies and business machine stores.
- (37) Optical stores.
- (38) Packaged beverage stores.
- (39) Paint, glass, and wallpaper stores.
- (40) Parking lots.
- (41) Physical fitness centers.
- (42) Plumbing and heating supplies
- (43) Professional offices.
- (44) Real estate sales offices.
- (45) Restaurants, not including restaurants with drive in and drive through lanes.
- (46) Self-service laundries and dry-cleaning establishments.
- (47) Shoe stores and leather goods stores.
- (48) Soda fountains and ice cream stores.
- (49) Sporting goods stores.
- (50) Stationery stores.
- (51) Tailor or dressmaking shops.
- (52) Tobacco stores.
- (53) Travel agency.
- (54) Variety stores.
- (55) Vegetable stores.
- (56) Videotape sales and rental.

**B. Permitted Accessory Uses**

- (1) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Off street parking and loading areas.

- (3) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (4) Rental efficiency and one bedroom apartments on a non-ground level provided there shall be a minimum floor area of 350 square feet for an efficiency apartment, and 450 square feet for a one bedroom apartment.
- (5) Essential services
- (6) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Utilities.
- (2) Satellite dish antennas.
- (3) Solar collectors.
- (4) Outdoor display of retail merchandise
- (5) Accessory walk-in cooler for retail use
- (6) Apartment units located above the primary business, which may be rented to persons other than those specified in Section 17.0308 B.(3) above.
- (7) Banks with drive in and drive through lanes.
- (8) Restaurants with drive in and drive through lanes.
- (9) All structures containing over 20,000 square feet of area.
- (10) Structures containing over 17,000 square feet of area for the wholesale and retail sale of clothing motorcycle accessories and motorcycle parts, the display of motorcycles as part of the accessory sales process, the assembly of motorcycles prior to delivery, the dry storage of motorcycles and minor repair of small engines not involving the manufacture of motorcycle parts. The minor repair of small engines may be performed within no more than five percent (5%) of the total land area subject to this section.
- (11) Temporary tent structures, not exceeding 4,500 square feet, immediately adjacent to a permanent structure holding a catering business for use as a temporary even facility.
- (12) Roasting of coffee beans in conjunction with a retail operation.
- (13) A landscape business in an existing off-street metal storage building and enclosed, screened parking area, overnight storage and minor maintenance of licensed vehicles and equipment and limited material samples used in a functioning landscape business whose corporate offices, retail store and product display area are located at another site.

**D. Lot Area and Width**

- (1) Lots shall be a minimum of 7,200 square feet in area and shall not be less than 60 feet in width.

**E. Building Height**

- (1) No principal building or part of a principal building shall exceed 45 feet in height.

**F. Setback and Yards**

- (1) When remodeling existing buildings, the setback from the street right-of-way will be at the discretion of the Plan Commission as necessary to maintain or enhance the architectural and/or historical character of the building concerned.
  - a. No minimum side yard is required for all new construction, however, where a side yard is provided, it shall not be less than 10 feet in width.
  - b. All new construction will require a minimum rear yard of not less than 25 feet.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for use in the central business district shall, before a building permit is issued, present detailed plans pertaining to the proposed structures to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0309**

**B-2 SHOPPING CENTER BUSINESS DISTRICT**

The B-2 Business District is intended to provide for individual and small groups of retail and customer service establishments. This type of district is generally located away from the traditional central business district and provides such amenities as increased open space and off-street parking and loading facilities, making such facilities more compatible with the character of adjacent residential neighborhoods. One hundred percent of the first floor of buildings in the B-2 District shall be used for commercial only.

**A. Permitted Uses**

- (1) Antique and collectors' stores.
- (2) Appliance Stores.
- (3) Art Galleries.
- (4) Bakeries.
- (5) Banks, savings and loan associations, and other financial institutions.
- (6) Barber shops.
- (7) Bars and taverns.
- (8) Beauty shops.
- (9) Book or stationary stores.
- (10) Bowling alleys.
- (11) Business offices.
- (12) Camera and photographic supply stores.
- (13) Clinics.
- (14) Clothing stores.
- (15) Confectioneries.
- (16) Delicatessens.
- (17) Department stores.
- (18) Drug stores.

- (19) Electronic equipment sales, service and repair.
- (20) Equipment rental centers.
- (21) Fish Markets.
- (22) Florists.
- (23) Fruit stores.
- (24) Funeral homes.
- (25) Furniture stores.
- (26) Furriers and fur apparel.
- (27) Gift stores.
- (28) Grocery stores.
- (29) Hardware stores.
- (30) Hobby and craft shops.
- (31) Hotels and motels.
- (32) Insurance sales offices.
- (33) Interior decorator/design
- (34) Janitorial services.
- (35) Jewelry stores.
- (36) Lodges and clubs.
- (37) Meat markets.
- (38) Music stores.
- (39) Newspaper and magazine stores.
- (40) Office supplies and business machine stores.
- (41) Optical stores.
- (42) Packaged beverage stores.
- (43) Paint, glass and wallpaper stores.
- (44) Parking lots and structures.
- (45) Physical fitness centers.
- (46) Plumbing and heating supplies.
- (47) Professional offices.
- (48) Public utility offices.
- (49) Publishing houses.
- (50) Real estate sales offices.
- (51) Restaurants, not including restaurants with drive in and drive through lanes.
- (52) Self-service laundries and dry-cleaning establishments.
- (53) Shoe stores and leather goods stores.
- (54) Soda fountain and ice cream stores.
- (55) Sporting good stores.
- (56) Supermarkets
- (57) Tailor or dressmaking shops.
- (58) Theatres.
- (59) Tobacco stores.
- (60) Travel agency.
- (61) Variety stores.
- (62) Vegetable stores.
- (63) Videotape sales and rental.

**B. Permitted Accessory Uses**

- (1) Garages for storage of vehicles used in conjunction with the operation of business.
- (2) Off street parking and loading areas.
- (3) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (4) Essential Services.
- (5) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
- (6) Roof mounted solar collectors.
- (7) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Utilities.
- (2) Printing.
- (3) Banks with drive in and drive through lanes.
- (4) Meat lockers.
- (5) Solar collectors erected as an accessory structure.
- (6) Outdoor display of retail merchandise.
- (7) Processing and assembling of final products where the space for the manufacturing process does not exceed 1,000 square feet.
- (8) Apartment units located above the primary business, which may be rented to persons other than those specified in Section 17.0308(B)(3) above.
- (9) Restaurants with drive in and drive through lanes.
- (10) All buildings containing over 20,000 square feet of area.
- (11) Utilities.

**D. Lot Area and Width**

- (1) Shopping center sites or districts shall contain a minimum of four acres and shall be not less than 200 feet in width.
- (2) Individual business sites in the B-2 Business District shall provide sufficient area for the principal building and its accessory buildings, off street parking and loading areas, and required yards. There is no required minimum site width.

**E. Building Height**

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.

**F. Setback and Yards**

- a. When remodeling existing buildings, the setback from the street right-of-way will be at the discretion of the Plan Commission as necessary to maintain or enhance the architectural and/or historical character of the building concerned, but no less than five (5)feet. All new construction will require a minimum setback from the street right-of-way not less than five (5) feet.

- b. All new construction will require a minimum offset from side lots a distance of 15 feet.
- c. All new construction will require a minimum rear yard of not less than 25 feet.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for use in the business district shall, before a building permit is issued, present detailed site plans pertaining to the proposed structures to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208 who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0310**

**B-3 OFFICE AND PROFESSIONAL BUSINESS DISTRICT**

The B-3 Business District is intended to provide for individual or limited office, professional, and special service uses where the office activity would be compatible with other neighborhood uses and not exhibit the intense activity of other business districts.

**A. Permitted Uses**

- (1) Administrative and public service offices.
- (2) Professional offices of an architect, landscape architect, lawyer, accountant, doctor, Christian science practitioner, dentist, clergy, engineer or other similarly recognized profession.
- (3) Studios for photography, painting, music, sculpture, dance or other recognized fine art.
- (4) Real estate and insurance offices.
- (5) Banks or financial institution.
- (6) Interior decorator.
- (7) Medical Clinics.
- (8) Barber shops and beauty shops.

**B. Permitted Accessory Uses**

- (1) Accessory garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Off street parking areas.
- (3) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (4) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
- (5) Roof mounted solar collectors.
- (6) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Funeral homes and crematoriums.
- (2) Utilities.
- (3) Radio and television transmitting and receiving stations.
- (4) Banks with drive in and drive through lanes.
- (5) Apartment units located above or adjacent to the primary business, which may be rented to persons other than those specified in Section 17.0308 B.(3) above.
- (6) All buildings containing over 20,000 square feet.
- (7) Buildings over one hundred (100) years old which were originally constructed for single family residential use may be used for up to 100% single family residential use provided however that the single-family residential use may not be expanded.

**D. Lot Area and Width**

- (1) Lots shall have a minimum area of 10,000 square feet and shall have a minimum lot width of 75 feet at the building line.

**E. Building Height**

- (1) No principal building or parts of a principal building shall exceed 45 feet in height.

**F. Setback and Yards**

- (1) When remodeling existing buildings, the setback from the street right-of-way will be at the discretion of the Plan Commission as necessary to maintain or enhance the architectural and/or historical character of the building concerned, but no less than five (5) feet.
  - a. All new construction will require a minimum setback from the street right-of-way not less than five (5) feet.
  - b. All new construction will require a minimum offset from the rear lot line a distance of not less than 25 feet.
  - c. There shall be a side yard on each side of all buildings not less than 15 feet in width.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for use in the office and professional district shall before a building permit is issued, present detailed site plans pertaining to the proposed structures to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208 who will approve said plans only after determining that the proposed building will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0311**

**B-4 HIGHWAY BUSINESS DISTRICT**

The B-4 Business District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

**A. Permitted Uses**

- (1) Any use permitted in the B-2 Shopping Center Business District.
- (2) Motels and motor hotels.
- (3) Building supply stores excluding lumber yards.
- (4) Automotive, aircraft, and marine sales and service.
- (5) Restaurants, not including restaurants with drive in and drive through lanes.
- (6) Convenience food stores.
- (7) Interior decorator/design.

**B. Permitted Accessory Uses**

- (1) Accessory garages for storage of vehicles used in conjunction with the operation of the business.
- (2) Off street parking and loading areas.
- (3) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (4) Essential Services.
- (5) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
- (6) Roof mounted solar collectors.
- (7) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.
- (8) Garden Shop.

**C. Conditional Uses**

Buildings over forty (40) years old which were originally constructed for residential use may be used for up to 100% residential use provided however that the residential use may not be expanded.

- (1) Gasoline service stations provided that all service islands and pumps shall meet the setback requirements.
- (2) Banks with drive in and drive through lanes.
- (3) Restaurants with drive in and drive through lanes.
- (4) Solar collectors erected as an accessory structure.
- (5) Lumber yards.
- (6) Crematory services.
- (7) Utilities.
- (8) Printing.
- (9) Outdoor display of retail merchandise.
- (10) Meat lockers.
- (11) Processing and assembling of final products where the space for the manufacturing process does not exceed 2,000 square feet.
- (12) Apartment units located above the primary business, which may be rented to persons other than those specified in Section 17.0308B.(3) above.
- (13) All buildings containing over 20,000 square feet.
- (14) Buildings over forty (40) years old which were originally constructed for residential use may be used for up to 100% residential use provided however that the residential use may not be expanded

**D. Lot Area and Width**

- (1) Lots shall have a minimum area of 10,000 square feet and shall have a minimum lot width of 75 feet at the building line.

**E. Building Height**

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.

**F. Setback and Yards**

- (1) When remodeling existing buildings, the setback from the street right-of-way will be at the discretion of the Plan Commission as necessary to maintain or enhance the architectural and/or historical character of the building concerned, but no less than five (5) feet.
  - a. All new construction will require a minimum setback from the street right-of-way a distance equal to the average of the setback of buildings on both sides of the lot concerned, but not less than five (5) feet.
  - b. There shall be a side yard not less than 20 feet in width.
  - c. There shall be a rear yard of not less than 25 feet.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for use in the highway business district shall before a building permit is issued, present detailed site plans pertaining to the proposed structures to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208 who will approve said plans only after determining that the proposed building will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0312**

**I-1 INSTITUTIONAL DISTRICT**

The I-1 Institutional District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public related ownership and where the use for public purpose is anticipated to be permanent.

**A. Permitted Uses**

- (1) Public or private schools, colleges, and universities.
- (2) Churches.
- (3) Commercial day care centers.
- (4) Post office.
- (5) Hospitals, sanatoriums and nursing homes.
- (6) Libraries, museums, and art galleries.
- (7) Public administrative offices, and public service buildings, including fire and police stations.
- (8) Public utility offices.
- (9) Water storage tanks and towers.
- (10) Fraternal lodges.

**B. Permitted Accessory Uses**

- (1) Residential quarters for caretakers or clergy.
- (2) Garages for storage of vehicles used in conjunction with the operation of a permitted use.
- (3) Off street parking and loading areas.
- (4) Service buildings and facilities normally accessory to the permitted uses.
- (5) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
- (6) Roof mounted solar collectors.
- (7) Private swimming pools provided that such pool construction is in compliance with Section 14.433 of the Village of Thiensville Building Code.

**C. Conditional Uses**

- (1) Utilities.
- (2) Solar collectors erected as an accessory structure.
- (3) Communication towers.

**D. Lot Area and Width**

- (1) Lots in the I-1 district shall be a minimum of 15,000 square feet in area with a minimum lot width of 100 feet.

**E. Building Height**

- (1) No building or parts of a building shall exceed 35 feet in height. The total floor area of a dwelling shall be not less than 1,200 square feet.

**F. Setback and Yards**

- (1) There shall be a minimum building setback of 40 feet from the street right-of-way.
- (2) There shall be a side yard on each side of the principal structure not less than 15 feet in width.
- (3) There shall be a rear yard of not less than 25 feet.

**G. Site Plans to be Submitted to Plan Commission**

- (1) Every builder of any building hereafter erected or structurally altered for institutional uses shall, before a building permit is issued, present detailed site plans pertaining to the proposed structure to the Village Plan Commission, subject to submittal requirements stated in Section 17.1208 who will approve said plans only after determining that the proposed building will comply with Sections 17.1208 Site Plan Requirements, Section 17.1209 Criteria for Review and Approval and Section 17.1210 Architectural Review.

**17.0313**

**P-1 PARK DISTRICT**

The P-1 Park District is used to provide for areas where the open space and recreational needs, both public and private, of the citizens can be met without undue disturbance of natural resources and adjacent uses.

**A. Permitted Uses**

- (1) Botanical gardens and arboretums.
- (2) Fairground.
- (3) Forest reserves (wilderness areas).
- (4) Historic and monument sites.
- (5) Ice skating.
- (6) Parks general recreation.
- (7) Parks leisure and ornamental.
- (8) Picnicking areas.
- (9) Playfields or athletic fields.
- (10) Play lots or tot lot.
- (11) Recreation center
- (12) Swimming pools.
- (13) Tennis courts.

**B. Accessory Uses**

- (1) Building accessory to the permitted recreational use.
- (2) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
- (3) Roof mounted solar collectors.

**C. Conditional Uses**

- (1) Archery range.
- (2) Gymnasiums.
- (3) Public pools.
- (4) Solar collectors erected as an accessory structure.

**D. Lot Area and Width**

- (1) Lots in the P-1 Park District shall provide sufficient area for the principal structure and its accessory structures, off street parking and loading areas as required by Section 17.0500 of this Ordinance, and all required yards.

**E. Building Height**

- (1) No building or parts of a building shall exceed 35 feet in height.

**F. Setback and Yards**

- (1) There shall be a minimum setback of 40 feet from the street right-of-way.
- (2) There shall be a side yard on each side of all buildings not less than 40 feet in width.
- (3) There shall be a rear yard of not less than 40 feet.

**17.0314**

**FW FLOODWAY DISTRICT**

The FW Floodway District is intended to be used to protect people and property from flood damage by prohibiting the erection of structures that would impede the flow of water during periodic flooding. Permitting use of the floodway would increase damages in the broader floodplain by increasing flood stages. In delineating the FW District, the effects of development within the associated flood fringe shall be computed.

No increase in flood stage shall be permitted that is equal to or greater than 0.01 foot unless the Village of Thiensville has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase, and until the Village and all such affected units of government have amended their water surface profiles and flood land zoning maps to reflect the increased flood elevations. Under no circumstances shall the cumulative effect of flood stage increases raise the regional flood profile in excess of 1.0 foot.

**A. Permitted Uses**

- (1) Drainage.
- (2) Movement of Floodwater.
- (3) Navigation.
- (4) Stream Bank Protection.
- (5) Water Measurement and Control Facilities.
- (6) Any of the following uses are permitted provided that they are permitted uses in the district immediately adjacent to the floodway, and further provided that such use shall not involve the erecting or placing of a structure.
  - a. Grazing.
  - b. Horticulture.
  - c. Open parking and loading areas provided that such uses shall not be subject to inundation depths greater than two feet or flood velocities greater than two feet per second.
  - d. Open Markets.
  - e. Open recreational uses, such as parks, sport fields, beaches, bathing, hunting, fishing, rinks, golf courses, and driving ranges.
  - f. Outdoor Plant Nurseries.
  - g. Pasturing.
  - h. Sod Farms.
  - i. Truck Farming.
  - j. Utility poles, towers, and underground conduit for transmitting electricity, telephone, cable television, natural gas, and similar products and services.
  - k. Viticulture (grape growing).
  - l. Wildlife Preserves.

**B. Conditional Uses**

- (1) Open space and related uses for the following uses provided that the applicant shows that such use or improvement will not impede drainage, will not cause ponding will not obstruct the floodway, will not increase flood flow velocities, will not increase the flood stage, and will not retard the movement of floodwaters. When permitted, all structures shall be flood proofed and constructed so as not to catch or collect debris nor be damaged by floodwaters. Certification of flood proofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood.

- a. Navigational structures.
  - b. Public water measuring and control facilities.
  - c. Bridges and approaches.
  - d. Marinas.
  - e. Filling as authorized by the Wisconsin Department of Natural Resources to permit the establishment of approved bulkhead lines.
  - f. Other open space uses consistent with the purpose and intent of the district and compatible with uses in adjacent districts, not including structures.
- (2) Municipal water supply and sanitary sewerage systems, provided that the system is flood proofed to an elevation of at least two (2) feet above the elevation of the 100-year recurrence interval flood, and is designed to eliminate or minimize infiltration of floodwaters into the system. Certification of flood proofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood level for the particular stream reach.

**C. Dumping and Filling Prohibited**

- (1) Lands lying within the Floodway District shall not be used for dumping or be filled except as authorized to permit establishment of approved bulkhead lines or to accommodate bridge approaches. Normal earth grading activities to permit utilization of the lands for open space, outdoor recreation, yard, parking, and similar uses are permitted.

**D. Dangerous Materials Storage Prohibited**

- (1) Lands lying within the Floodway District shall not be used for the storage of materials that are buoyant, flammable, explosive, or injurious to human, animal, or plant life.

**E. Incompatible Uses Prohibited**

- (1) Lands lying within the Floodway District shall not be used for any solid waste disposal site or onsite soil absorption sanitary sewerage system site, or the construction of any well which is used to obtain water for ultimate human consumption. Sewage treatment plants and treatment ponds shall not be constructed in the Floodway District.

**F. Maintenance of Drainageways**

- (1) No development in the Floodway District shall adversely affect the channels, floodways, or shorelands of any tributary of the Milwaukee River, Pigeon Creek, drainage ditches, or other lands lying outside the floodlands.

**17.0315 FFO FLOODPLAIN FRINGE OVERLAY DISTRICT**

The FFO Floodplain Fringe Overlay District is intended to provide for and encourage the most appropriate use of land and water in areas subject to periodic flooding and to minimize flood damage to people and property. In developing floodplain fringe areas,

consideration shall be given to the maintenance of flood storage capacity and preventing significant increases in the flood discharges identified in the Village's Flood Insurance Study. The effects of development within the flood fringe shall be computed. No increase in flood stage shall be permitted that is equal to greater than 0.01 foot unless the permit applicant has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase, and until all such affected units or government have amended their water surface profiles and floodland zoning maps to reflect the increased flood elevations. Under no circumstances shall the cumulative effect of flood stage increases raise the regional flood profile in excess of 1.0 foot.

**A. Permitted Use**

- (1) Any use of land, except development involving structures that is permitted in the underlying basic use district. Examples of such use would be required yards in a residential district; or parking or loading areas in a commercial or industrial district, provided that inundation depths for parking and loading areas do not exceed two (2) feet or that such areas are not subject to flood velocities greater than two (2) feet per second upon the occurrence of a 100-year recurrence interval flood.

**B. Conditional Use**

- (1) Residential and commercial structures provided that the structures is permitted in the underlying basic use district, and provided that such floodplain fringe areas shall be filled to an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood. Such fill shall extend for at least 15 feet beyond the limits of the structure placed thereon. All structures shall be provided with dry land access to lands outside the floodplain. Where existing streets or sewer lines are at elevations which make dry land access impractical, the Village may permit development where access roads are at or below the 100-year recurrence interval flood stage, provided that the Village has written assurance from appropriate police and fire departments, and emergency service agencies, that rescue and relief service will be provided to properties in the area by wheeled vehicles during a flood event or the Village has an adopted natural disaster plan concurred with by the Wisconsin Division of Emergency Government and approved by the Wisconsin Department of Natural Resources. The finished surface of the lowest floor (excluding basement or crawlway) shall be constructed or placed at an elevation that is at least two (2) feet above the elevation of the 100-year recurrence interval flood. Basement or crawlway floors may be placed at the 100-year recurrence interval flood elevation provided that the basement or crawlway is flood proofed to the flood protection elevation. Residential structures placed on fill may be removed from the Floodplain Fringe Overlay District provided that the fill is contiguous to lands lying outside of the floodlands, and further provided that the property owner, or his agent, has complied with all the requirements for amending the zoning map as set forth in Section 17.1100 of this Ordinance.

- (2) Industrial structures provided that the structure is permitted in the underlying district and provided that the fill requirements and dry land access requirements for residential structures in the FFO district are complied with. However, when the intent and purpose of this Ordinance cannot be fulfilled by filling the floodplain fringe due to existing and committed development, and when the Village Plan Commission has made a finding to this effect, all new structures and all additions to existing structures in the Floodplain Fringe Overlay District shall be flood proofed to a point two (2) feet above the elevation of the 100-year recurrence interval flood. Certification of flood proofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood level for the particular stream reach. Structures placed on fill may be removed from the Floodplain Fringe Overlay District provided that the fill is contiguous to lands lying outside of the floodlands, and further provided that the property owner, or his agent, has complied with all the requirements for amending the zoning map as set forth in Section 17.1100 of this Ordinance.
- (3) Structures accessory to a permitted use may be erected below the flood protection elevation provided that they are not attached to the principal structure, are not designed for human habitation, have a low flood damage potential, are constructed and placed to provide minimum obstruction to flood flows (whenever possible, accessory structures should be placed within their longitudinal axis parallel to the flow of floodwaters), are firmly anchored to prevent them from floating away and restricting bridge openings, and have all service facilities (such as electrical and heating equipment) at an elevation that is at least two (2) feet above the 100-year recurrence interval flood.
- (4) Municipal water supply and sanitary sewerage systems provided that the system is flood proofed to an elevation of at least two (2) feet above the elevation of the 100-year recurrence interval flood, and is designed to eliminate or minimize infiltration of floodwaters into the system. Certification of flood proofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood level for the particular stream reach.
- (5) Filling to remove lands from the FFO floodplain fringe overlay district provided that such fill shall be to an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood and further provided that such lands are contiguous to lands lying outside of the floodlands. No such Floodplain Fringe Overlay District shall be removed from the Supplementary Floodland Zoning Map until the filling is complete and until the property owner, or his agent, has complied with all the requirements for amending the zoning map as set forth in Section 17.1100 of this Ordinance.

**C. Incompatible Uses Prohibited**

- (1) Land lying within the Floodplain Fringe Overlay District shall not be used for any solid waste disposal site, onsite soil absorption sanitary sewerage system site, or the construction of any well which is used to obtain water for ultimate human consumption.

**D. Maintenance of Drainageways**

- (1) No filling or development in the FFO Floodplain Fringe Overlay District shall adversely affect the channels, floodways, or shorelands of any tributary of the Milwaukee River, Pigeon Creek, drainage ditches, or other lands lying outside the floodlands.

**17.0316**

**PDO PLANNED DEVELOPMENT OVERLAY DISTRICT**

The PDO Planned Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Overlay District under this Ordinance will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, to accommodate development, redevelopment and/or rehabilitation of property that will serve the best interests of the Village. The use of the PDO District shall be subject to regulatory standards as necessary to be consistent with the direction set forth in the Village of Thiensville Comprehensive Land Use Plan and components thereof. The unified and planned development of a site in a single or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village upon specific petition under this section of the Ordinance and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this section of the Ordinance have been met.

**A. Permitted, Accessory and Conditional Uses**

- (1) Uses permitted in a Planned Development Overlay District shall conform to uses generally permitted in the underlying basic use district or in other districts of this ordinance. The area and height of individual principal and accessory structures shall be established on a case-by-case basis by the Village Board following recommendation by the Plan Commission if it is determined that such deviation from the specific requirements would further the intent of the PDO ordinance; specifically:
  1. A safe and efficient system for pedestrian and vehicle traffic.
  2. Attractive recreation and open spaces as integral parts of the development.
  3. Economic and efficient design in the location of public and private utilities and common facilities.
  4. Adequate standards of construction and planning.
  5. The basis for approval of the Petition in Section 17.0316(D)(1-8).

Setbacks shall be established on a case-by-case basis by the Village Board following recommendation by the Plan Commission along any boundary street of the project area where deviation from the specific requirements of the underlying basic use district would further the interest of the PDO ordinance, as set forth above.

All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing for combined average open spaces and parking space as provided in the approved project plan, except where deviation from the specific requirements would further the intent of the PDO ordinance, as set forth above.

**B. Minimum Area Requirements**

- (1) Areas designated as Planned Development Overlay Districts shall be under single or corporate ownership or control, and shall contain a minimum development area determined by the Village Board following recommendation by the Plan Commission for each type of planned development.

Principal Uses

- a. Residential PDO
- b. Commercial PDO
- e. Mixed Compatible Use
- d. Commercial/Multi-Family PDO

- (2) **Density Requirements.** Only one of three possible levels of residential density shall be allowed in specific PDO Overlay Districts but at a maximum density not to exceed 22 units/acre.
  - a. The number of residential dwelling units allowed as a permitted use in the underlying zoning district; or
  - b. The number of residential dwelling units allowed as a conditional use in the underlying zoning district; or
  - c. The number of residential dwelling units allowed where an increased density is allowed in recognition of a project of exceptionally high overall quality as provided below:

**Increased Density Justification.**

- 1) If, notwithstanding dimensional differentials, a proposed project uniformly contains exterior and interior materials, design details, workmanship and features of an exceptionally high quality that emulates the character of the Village of Thiensville and/or the immediate neighborhood, an “increased density” for residential dwelling units may be recommended by the Plan Commission and approved by the Village Board as part of the original PDO District approval process.
- 2) If granted, the increased density level of a residential use shall be in lieu of any other possible residential density.
- 3) An increased density shall constitute a discretionary number of residential units based on the following criteria for consideration/recommendation by the Plan Commission and approved by the Village Board.
  - a) Whether the project will provide better utilization of the land than would otherwise be realized if the site were developed with the density requirements of the underlying district, or as a PDO without an increased density.
  - b) Whether the project makes adequate provisions such that an increase in density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed

public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use(s) associated with the proposed project.

- c) Whether the structures proposed for the project are harmonious with existing nearby structures and land uses.
  - d) Whether the building materials have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
  - e) Whether the proposed project will result in the construction or upgrading of specific public infrastructure improvements that will benefit the public at no cost to the Village
  - f) Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.
- (3) **Lot Area and Width.**  
The lot area and width requirements of the underlying basic use zoning district may be modified if deemed appropriate by the Village Board following recommendation by the Plan Commission, provided that the lot sizes are adequate to accommodate all proposed buildings and site features.
- (4) **Building Height and Area.**  
The Village Board following recommendation by the Plan Commission may allow an increase in allowable building height, if it is determined that such an increase is warranted to support the public benefit likely to result from the proposed development.
- (5) **Setback and Yard.**  
Setbacks and yards required by the underlying basic use zoning district may be modified in the PDO Planned Development Overlay District if it is determined appropriate by the Village Board following recommendation by the Plan Commission.

### C. **Procedural Requirements**

- 1) Pre-Petition Conference.
  - a) Prior to the official submission of the petition for the approval of a Planned Development Overlay District, the owner or his agent making such petition shall meet with the Village Plan Commission or its staff and provide sufficient written details and drawings concerning the scope and proposed nature of the contemplated development as necessary to permit an adequate staff review.
  - b) Staff review will involve all Village departments in an assessment of the feasibility and potential impacts of the project on Village infrastructure and resources as well as its conformity with the provisions of the Village Zoning Code.

- c) The purpose of the pre-petition conference is solely to allow for discussion and feedback about a possible project regarding issues that may have to be addressed in the event a petition is submitted.
  - d) Discussion and feedback about the proposed nature and scope of the proposed project at the pre-petition conference by Village staff and the Plan Commission shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development proposed for discussion.
- 2) Petition. Following the pre-petition conference, the owner or his agent may file a petition with the Village Clerk for approval of a Planned Development Overlay District. Such Petition shall be accompanied by a review fee and the following information:
- a) A statement which sets forth the relationship of the proposed PDO to the Village's adopted master plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PDO, including the following information:
    - 1) Total area to be included in the PDO, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
    - 2) A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
    - 3) A general outline of the organizational structure of a property owner or management association, which may be proposed to be established for the purpose of providing any necessary private services and to determine the manner in which the owner or management association will participate in the formulation and execution of the development agreement.
    - 4) Any proposed departures from the standards of development as set forth in the Village zoning regulations, other Village regulations or administrative rules, or other universal guidelines.
    - 5) A development timetable, including all benchmark dates from commencement to completion of the physical development of the proposed project.
    - 6) A traffic study that verifies that the proposed development will not have an adverse impact on Village, County or State highways.
    - 7) The application shall include road design information, erosion and sediment control practices, stormwater retention facilities and information concerning the soils so the Village can be assured that the soil conditions are adequate to accommodate the structures and Village roads and whether any special precautions are necessary for basement construction. The Village may modify such proposals subject to conditions of approval as long as such modifications are consistent with good engineering practice and the approval of the Village Board.
    - 8) All residential planned unit developments shall provide permanent common open space. Open space may be in corporate ownership

or in a private homeowners' association, unless the open space is dedicated to the Village as parkland pursuant to the Municipal Code, with an open space easement to assure that the open space will be permanent. Common open space shall be conveniently accessible to all residential dwellings within a planned unit development, available to all occupants of the dwelling units for whom the use of the open space is intended and shall provide a meaningful and useful area for such intended open space. It is the intent of this provision to ensure equitable distribution of various land uses to all owners and maintain the maximum of open space. Common open space does not include private lots, street right-of-ways or lands determined unsuitable by the Village Board due to accessibility, common benefits or the intent of the provision. The application shall include what amenities are proposed in the common open space and if they are to be phased during completion of the development.

- 9) General outline of intended organizational structure related to property owner's association, architectural review committee, deed restrictions and provisions of utilities and other services.
- 10) A project staging plan that outlines a timetable for project completion including but not limited to: roads, utility hookups, construction and landscaping.
- 11) Any other information as required by the Village staff, Plan Commission or Village Board.

b) A general development plan including:

- 1) Names, addresses, daytime phone numbers and email addresses of the applicant, owner of the site, architect, professional engineer, contractor, principal investors, and designation of the principal representatives and/or contact person during the review of the project.
- 2) A legal description of the boundaries of the subject property included in the proposed PDO and its relationship to surrounding properties.
- 3) The location of public and private roads, driveways, and parking facilities.
- 4) The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
- 5) The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
- 6) The type, size and location of all structures.
- 7) General landscape treatment.
- 8) Architectural plans, elevation and perspective drawings and sketches illustrating the design and character of proposed structures.
- 9) The existing and proposed location of public sanitary sewer, water and stormwater drainage facilities.
- 10) The existing and proposed location of all private utilities or other easements.

- 11) Characteristics of soils related to contemplated specific uses.
  - 12) Existing topography on the site with contours at no greater than 2-foot intervals
  - 13) Anticipated uses of adjoining lands in regards to roads, surface water drainage and compatibility with existing adjacent land uses.
- (6) Land divisions. Any proposed division that results in a subdivision or any division of land other than a subdivision that is part of the proposed PDO Plan Development Overlay District shall be subject to requirements of Chapter 66 of the Village's Code of Ordinances and Chapter 236 of the Wisconsin State Statutes.
  - (7) Referral to Plan Commission. The petition for a Planned Development Overlay District shall be referred to the Village Plan Commission for its review and recommendation, including any additional conditions or restrictions, which it may deem necessary or appropriate.
  - (8) Public Hearing. The Village Plan Commission before formulating its recommendations to the Village Board shall hold a public hearing pursuant to the requirements of Section 17.1105 of this Ordinance. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested Planned Development Overlay District.

**D. Basis for Approval of the Petition**

- (1) The Village Plan Commission in making its recommendation and the Village Board in making its determination, shall consider:
- (2) That the petitioners for the proposed Planned Unit Development Overlay District have indicated that they intend to begin the physical development of the PDO within twelve (12) months following the approval of the petition and that the development will be carried out according to a reasonable development timetable including all benchmark dates from commencement to completion of the physical development of the proposed project that is satisfactory to the Village.
- (3) That the proposed Planned Unit Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Ordinance; is in conformity with the adopted Comprehensive Smart Growth Land Use Plan or any adopted component thereof; and, that the development would not be contrary to the general welfare and economic prosperity of the Village and that the benefits and improved design of the resultant development justifies the establishment of a PDO Planned Development Overlay District.
- (4) The Village Plan Commission in making its recommendations and the Village Board in making its determination shall further find that:
  - a. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
  - b. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

- c. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas by the proposed development.
  - d. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
  - e. Public water and sewer facilities shall be provided.
  - f. The entire tract or parcel of land to be included in a Planned Unit Development Overlay District shall be held under single ownership, or if there is more than one (1) owner, the petition for such Planned Development Overlay District shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the Ozaukee County Register of Deeds office.
- (5) That in the case of a proposed Residential Planned Unit Development Overlay District:
- a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
  - b. The total net residential density within the Planned Unit Development Overlay District will be consistent with the Village's Smart Growth Land Use Plan and the density determined on a case-by-case basis by the Village board following review and recommendation by the Plan Commission.
  - c. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
  - d. Adequate, continuing fire and police protection is available.
  - e. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
  - f. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.
- (6) That in the case of a proposed Commercial Planned Unit Development Overlay District.
- a. The proposed development will be adequately served by off-street parking and truck service facilities.
  - b. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities such as fire and police protection, street maintenance and maintenance of public areas.
  - c. The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.

- d. The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (7) That in the case of a mixed use Planned Unit Development Overlay District:
- a. The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which as a total development entity is compatible with the surrounding neighborhood.
  - b. The various types of uses conform to the general requirements as herein before set forth, applicable to projects of such use and character.
  - c. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.
- (8) That in the case of a commercial/apartment Planned Unit Development Overlay District:
- a. The development only be permitted in the Northern Downtown and S. Main Street West redevelopment target areas as described in the 1990-2010 Master Plan, and seen in Figure 3, page 8 of the Master Plan.
  - b. Apartment buildings are permitted only as conditional uses in these districts unless the underlying zoning is B-4 or B-5.
  - c. The underlying zoning in the two redevelopment target areas not be changed from their present zoning to allow for apartment buildings as permitted uses.
  - d. Such development allowed in a commercial/apartment PUD will create an attractive commercial and residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.
  - e. The development is compatible with surrounding land uses and will not adversely affect or be adversely affected by neighboring land uses.

**E. Development Agreement**

- 1) The Village's review and approval process shall be conditioned on the execution by the Village Board and the applicant of the development agreement approved by the Village Board with its approval embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
- 2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Village Board and shall include without limitation:
  - a. Timetables for performance/completion of improvements;
  - b. Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PDO;
  - c. Inspection requirements;

- d. Prohibitions on any division/combination of real estate lots included within the PDO District except as otherwise provided, including an exception for residential condominium units;
- e. Provisions for lapsing of specific plan approval and automatic reversion of the zoning status of the property of non-PDO District status upon specific changes of circumstances or failure of the project to materialize as agreed to in the development agreement;
- f. Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PDO District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and of its common services, common open areas and/or other facilities;
- g. Exhibits, drawings or other attachments that depict improvements including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as necessary to document to a reasonable degree of specificity of type, character and nature of improvements to be made within the development area.
- h.

**F. Determination**

- 1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a Planned Development Overlay District shall be based upon and include as conditions thereto the building, site and operational plans for the development as approved by the Village Board.

**G. Changes and Additions**

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

**H. Subsequent Land Division**

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

- (4) Financial Guarantee to Complete Construction Improvements in the Planned Unit Development. A letter of credit in a Wisconsin financial institution or cash deposit or other satisfactory financial guarantee approved by the Village Attorney to cover the cost of all improvements in facilities agreed upon in the conditional use permit.
- (5) Additional Requirements. The Plan Commission and the Village Board may add any further additional requirements appropriate to each conditional use necessary.
- (6) Recording. The conditional use shall be recorded in the office of the Register of Deeds to affect the real estate upon which a conditional use is granted, which includes all homeowners association documents and deed restrictions and provisions for utilities and other services.
- (7) **Termination**. If a building permit is not issued within one (1) year of receiving the PDO zoning, the PDO district zoning for the property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PDO rezoning.

17.0317

### **SWO SHORELAND WETLAND OVERLAY DISTRICT**

The SWO Shoreland Wetland Overlay District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the Village of Thiensville. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control storm water runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the Village.

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

#### **A. Permitted Principal Uses**

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

- (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system only to the extent necessary to maintain the level of drainage required to continue the existing use.
- (7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.
- (8) The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.

**B. Permitted Accessory Uses**

- (1) None.

**C. Conditional Uses**

- (1) The construction of streets in the SWO Shoreland Wetland Overlay District which are necessary for the continuity of the Village street system, necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses in wetlands, provided that:
  - a. The street cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay District;
  - b. The street is designed and constructed to minimize adverse impact upon the natural functions of the wetland as listed in Section 17.1208(B) of this Ordinance;
  - c. The street is designed and constructed with the minimum cross-section practical to serve the intended use;
  - d. The street construction activities are carried out in the immediate area of the roadbed only; and
  - e. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary for the construction or maintenance of the street.
- (2) The construction and maintenance of non-residential buildings used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with natural resource preservation, provided that:
  - a. The building cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay District;
  - b. The building is not designed for human habitation and does not exceed 500 square feet in area; and
  - c. Only limited filling or excavating necessary to provide structural support is conducted.
- (3) The establishment and development of public and private parks, recreation areas, recreation trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas, provided that:
  - a. Parks shall be limited to passive activities. No ball diamond, tennis court, playfield, playground or other active recreational area shall be constructed in a wetland;

- b. Any private recreation or wildlife habitat area must be exclusively for that purpose;
  - c. No filling is to be done; and
  - d. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.
- (4) The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities in the SWO Shoreland Wetland Overlay District, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to members located outside the SWO Shoreland Wetland Overlay District, provided that:
- a. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay District; and
  - b. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland area.
- (5) The construction and maintenance of railroad lines, provided that:
- a. The railroad lines cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay District; and
  - b. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the railroad, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland area.

**D. Prohibited Uses**

- (1) Any use not listed as a permitted use or a conditional use is prohibited unless the SWO Shoreland Wetland Overlay District lands concerned are first rezoned into another district.
- (2) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable water is prohibited.

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

**17.0410 STATUTORY AUTHORIZATION**

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

**17.0411 FINDING OF FACT**

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

**17.0412 STATEMENT OF PURPOSE**

This ordinance is intended to regulate floodplain development to:

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

**17.0413 TITLE**

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

**17.0414 GENERAL PROVISIONS**

(a) AREAS TO BE REGULATED

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

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

(b) OFFICIAL MAPS & REVISIONS

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

office of the Village Administrator of the Village of Thiensville. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS : Based on the FIS -

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

(c) ESTABLISHMENT OF DISTRICTS

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

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

(d) LOCATING FLOODPLAIN BOUNDARIES

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

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

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

(e) REMOVAL OF LANDS FROM FLOODPLAIN

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

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

(f) COMPLIANCE

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

(g) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

(h) **ABROGATION AND GREATER RESTRICTIONS**

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

(i) **INTERPRETATION**

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

(j) **WARNING AND DISCLAIMER OF LIABILITY**

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

(k) **SEVERABILITY**

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

(l) **ANNEXED AREAS FOR CITIES AND VILLAGES**

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

(m) **GENERAL DEVELOPMENT STANDARDS**

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

## 17.0415 DEFINITIONS

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

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

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

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

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

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

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

**17.0420 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

**17.0421 HYDRAULIC AND HYDROLOGIC ANALYSES**

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

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

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

(c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 17.0480.

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

#### **17.0422 WATERCOURSE ALTERATIONS**

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

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

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

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

#### **17.0430 FLOODWAY DISTRICT (FW)**

#### **17.0431 APPLICABILITY**

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

#### **17.0432 PERMITTED USES**

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

- they are not prohibited by any other ordinance;
  - they meet the standards in s. 17.0433 and 17.0434; and
  - all permits or certificates have been issued according to s. 17.0471:
- (a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - (b) Nonstructural commercial uses, such as loading areas, parking areas and airport landing strips.
  - (c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 17.0433(d).
  - (d) Uses or structures accessory to open space uses, or classified as historic structures, that comply with ss. 17.0433 and 17.0434.

- (e) Extraction of sand, gravel or other materials that comply with s. 17.0433(d).
- (f) Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (g) Public utilities, streets and bridges that comply with s. 17.0433(c).

**17.0433 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS**

(a) **GENERAL**

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

(b) **STRUCTURES**

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

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

(c) **PUBLIC UTILITIES, STREETS AND BRIDGES**

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

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

(d) **FILLS OR DEPOSITION OF MATERIALS**

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

- (1) The requirements of s. 17.0421 are met;
- (2) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;

- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulk heading; and
- (4) The fill is not classified as a solid waste or hazardous material.

**17.0434 PROHIBITED USES**

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

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

**17.0440 FLOODFRINGE DISTRICT (FF)**

**17.0441 APPLICABILITY**

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

**17.0442 PERMITTED USES**

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

**17.0443 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS**

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

- (a) **RESIDENTIAL USES**  
Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood-fringe area, shall meet or exceed the following standards:
  - (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other flood-proofing measures if the elevations of existing streets or sewer lines makes compliance with the fill

standards impractical;

- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is flood-proofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- (3) Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in par. (4).
- (4) In developments where existing street or sewer line elevations make compliance with par. (3) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
  - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  - b. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(b) **ACCESSORY STRUCTURES OR USES**

- (1) Except as provided in par.(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation, provided it is not a habitable structure as defined herein. All habitable structures are subject to the provisions of s. 17.0443(a).
- (2) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation provided it is not a habitable structure, it is subject to flood velocities of no more than two feet per second, and it meets all of the provisions of Sections 17.0433 (b) (1),(2),(3) and (4) and 17.0443 (e) below.

(c) **COMMERCIAL USES**

Any commercial structure which is erected, altered or moved into the flood-fringe area shall meet the requirements of s. 17.0443(a). Subject to the requirements of s. 17.0443(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) **MANUFACTURING AND INDUSTRIAL USES**

The Village of Thiensville does not have any manufacturing or industrial zoning uses.

(e) **STORAGE OF MATERIALS**

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or flood-proofed in compliance with s. 17.0475. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) **PUBLIC UTILITIES, STREETS AND BRIDGES**

All utilities, streets and bridges shall be designed to be compatible with comprehensive When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are flood-proofed in compliance with s. 17.0475 to the flood protection elevation; Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

- (g) **SEWAGE SYSTEMS**  
All on-site sewage disposal systems shall be flood-proofed, pursuant to s. 17.0475, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (h) **WELLS**  
All wells shall be flood-proofed, pursuant to s. 17.0475, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (i) **SOLID WASTE DISPOSAL SITES**  
Disposal of solid or hazardous waste is prohibited in flood-fringe areas.
- (j) **DEPOSITION OF MATERIALS**  
Any deposited material must meet all the provisions of this ordinance.

**17.0450 GENERAL FLOODPLAIN DISTRICT (GFP)**

**17.0451 APPLICABILITY**

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

**17.0452 PERMITTED USES**

Pursuant to s. 17.0454, it shall be determined whether the proposed use is located within the floodway or the flood-fringe portion of the general floodplain district. Following that determination, uses located in the floodway are subject to the provisions of s. 17.0432 and uses located in the floodfringe are subject to the provisions of s. 17.0442.

**17.0453 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT**

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

**17.0454 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

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

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

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

**17.0460 NONCONFORMING USES**

**17.0461 GENERAL**

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

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

**17.0462 FLOODWAY AREAS**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - (1) Has been granted a permit or variance which meets all ordinance requirements;
  - (2) Meets the requirements of s. 17.0461;
  - (3) Will not increase the obstruction to flood flows or regional flood height;
  - (4) Any addition to the existing structure shall be flood-proofed, pursuant to s. 17.0475, by means other than the use of fill, to the flood protection elevation;

- (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
  - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - c. Mechanical and utility equipment must be elevated or flood-proofed to or above the flood protection elevation; and
  - d. The use must be limited to parking or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

**17.0463 FLOODFRINGE AREAS**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or flood-proofed to the flood protection elevation in compliance with the standards for that particular use in s. 17.0443, except where s. 17.0463(b) is applicable.
- (b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 17.0473, may grant a variance from those provisions of par. (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
  - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (2) Human lives are not endangered;
  - (3) Public facilities, such as water or sewer, will not be installed;
  - (4) depths will not exceed two feet;
  - (5) Flood velocities will not exceed two feet per second; and
  - (6) The structure will not be used for storage of materials as described in s. 17.0443(e).

- (c) If neither the provisions of par. (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood-fringe, if the addition:
  - (1) Meets all other regulations and will be granted by permit or variance;
  - (2) Does not exceed 60 square feet in area; and
  - (3) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

**17.0470 ADMINISTRATION AND ENFORCEMENT**

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

**17.0471 ZONING ADMINISTRATOR**

- (a) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
  - (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  - (2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
  - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  - (4) Keep records of all official actions such as:
    - a. All permits issued, inspections made, and work approved;
    - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
    - c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
    - d. All substantial damage assessment reports for floodplain structures.
  - (5) Submit copies of the following items to the Department Regional office:
    - a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

- b. Copies of any case by case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
  - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
  - (7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(b) LAND USE PERMIT

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

(1) GENERAL INFORMATION

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

(2) SITE DEVELOPMENT PLAN

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

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

(3) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

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

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

(4) EXPIRATION

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

(c) CERTIFICATE OF COMPLIANCE

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

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

(d) OTHER PERMITS

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

**17.0472** ZONING AGENCY

(a) The Village Plan Commission shall:

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

(b) This zoning agency shall not:

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

**17.0473 BOARD OF ADJUSTMENT/APPEALS**

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

(a) **POWERS AND DUTIES**

The Board of Adjustment/Appeals shall:

- (1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(c) **APPEALS TO THE BOARD**

- (1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(2) **NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES**

a. Notice - The board shall:

1. Fix a reasonable time for the hearing;
2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

b. Hearing - Any party may appear in person or by agent. The board shall:

1. Resolve boundary disputes according to s. 17.0473(c).
2. Decide variance applications according to s. 17.0473(d).
3. Decide appeals of permit denials according to s. 17.0474.

- (3) DECISION: The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
  - b. Be sent to the Department Regional office within 10 days of the decision;
  - c. Be a written determination signed by the chairman or secretary of the Board;
  - d. State the specific facts which are the basis for the Board's decision;
  - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
  - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) BOUNDARY DISPUTES

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

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

(d) VARIANCE

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  - a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - c. The variance is not contrary to the public interest; and
  - d. The variance is consistent with the spirit, intent and purpose of this ordinance in s. 17.0413.
- (2) In addition to the criteria in par. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:
  - a. The variance may not cause any increase in the regional flood elevation;

- b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (3) A variance shall not:
- a. Grant, extend or increase any use prohibited in the zoning district.
  - b. Be granted for a hardship based solely on an economic gain or loss.
  - c. Be granted for a hardship which is self created.
  - d. Damage the rights or property values of other persons in the area.
  - e. Allow actions without the amendments to this ordinance or map(s) required in s. 17.0481.
  - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

**17.0474 TO REVIEW APPEALS OF PERMIT DENIALS**

- (a) The Zoning Agency (s. 17.0472) or Board shall review all data related to the appeal. This may include:
- (1) Permit application data listed in s. 17.0471(b).
  - (2) Floodway/flood-fringe determination data in s. 17.0454.
  - (3) Data listed in s. 17.0433(a)(2) where the applicant has not submitted this information to the zoning
  - (4) Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
- (1) Follow the procedures of s. 17.0473;
  - (2) Consider zoning agency recommendations; and
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
- (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

- (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

**17.0475 FLOODPROOFING**

- (a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the flood-proofing measures will protect the structure or development to the flood protection elevation.
- (b) Flood-proofing measures shall be designed to:
  - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (2) Protect structures to the flood protection elevation;
  - (3) Anchor structures to foundations to resist flotation and lateral movement; and
  - (4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (c) Flood-proofing measures could include:
  - (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
  - (2) Adding mass or weight to prevent flotation.
  - (3) Placing essential utilities above the flood protection elevation.
  - (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - (5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
  - (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

**17.0476 PUBLIC INFORMATION**

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

**17.0477 ENFORCEMENT AND PENALTIES**

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

**17.0480 AMENDMENTS**

**17.0481 GENERAL**

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

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

**17.0482 PROCEDURES**

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

- (a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (b) No amendments shall become effective until reviewed and approved by the Department.
- (c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (d) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 17.0415(d).)

**SECTION 17.0500 TRAFFIC, LOADING, PARKING AND ACCESS**

**17.0501 TRAFFIC VISIBILITY**

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district over 3 feet above the plane through the mean curb grades (See Illustration No. 1) within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line. Joining points on such lines located a minimum of 15 feet from their intersection (See Illustration No. 2)

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

**17.0502**

**LOADING REQUIREMENTS**

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

A. Number of loading and unloading spaces required.

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

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

- B. Each Loading and Unloading Space Shall Have Access to a public dedicated street or alley.
- C. The Minimum Area For Each Loading and Unloading Space, excluding the area needed to maneuver, shall be 250 square feet.
- D. At No Time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded. -

**17.0503**

**PARKING REQUIREMENTS**

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

- A. Parking Lot Setback including parking areas and aisles, shall be set back a minimum of five (5) feet from the base setback line and a minimum of five (5) feet from other lot line. This section is applicable to all off street parking areas in all Business Manufacturing and Industrial Districts.
- B. Adequate Access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide for one and two-family dwellings, and a minimum of 20 feet at the property line for all other uses. (See Section 17.0504B.)
- C. The Minimum Dimensions of each parking space shall be 8 feet by 16 feet and a maximum of 9 feet by 18 feet, except for parking spaces provided for use by physically disabled persons.
- D. Parking Spaces for use by physically handicapped persons shall comply with Chapter 69 of the State Code.
- E. Location to be on the same lot as the principal use or not over 400 feet from the principal use and shall be a minimum of 10 feet from an adjoining street right-of-way or lot line. Parking will only be allowed to the side and rear of the principal building(s) on any lot.

- F. Surfacing. All off-street parking areas shall be surfaced with an asphaltic or Portland cement pavement in accordance with the Village of Thiensville standards and specifications so as to provide a durable and dust-free surface, and shall be so graded and drained as to dispose of all surface waters. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- G. Landscaping. This section is applicable to all offstreet parking areas in Business Districts. All public off-street parking areas which serve five(5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Ordinance shall be provided with accessory landscape areas totaling not less than ten (10) percent of the surfaced area. The minimum size of each landscape area shall not be less than 170 square feet. Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission. Landscape islands shall be disbursed throughout the off street parking area. There shall be at least one (1) landscape island for each 10 parking spaces. Landscape islands shall contain a variety of deciduous/evergreen bushes and trees. At least one understory tree and 7 bushes shall be located in each landscape island. All plans for such proposed parking areas shall include a topographic survey or grading plan, which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area. Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of six (6) feet. The Plan Commission may modify these landscaping requirements when it is deemed that a hardship will be created.
- H. Parking Lot Screening. This section is applicable to all off street parking areas in all business, institutional and park districts and are created or redesigned and rebuilt subsequent to the adoption of this ordinance. A solid masonry wall with plantings as indicated below will be required at the sidewalk. Those parking areas for vehicles if adjoining a residential use or a public right-of-way shall be screened from such use with evergreen/deciduous plantings. Safety issues will be considered by the Plan Commission as they arise. Where safety issues have been determined by the Plan Commission, measures such as lower plantings may be considered. Deciduous material shall not exceed 25% of the planting material. One deciduous hardwood or other acceptable street trees subject to Village approval are required every 15 feet of Frontage Street adjacent to the right-of-way. Such shall be an average of 2 ½ feet to 3 feet in height at planting, between the parking and the street right-of-way. Parking lots adjacent to residential properties shall have a fence or 6 feet of equivalent density of conifers or a combination of both, with the method of screening to be approved by the Plan Commission. All screening materials shall be built and maintained at a minimum height of three (3) feet or six (6) feet if adjacent to residential properties. The Plan Commission may require greater screening requirements for parking of larger trucks, semi-trailers and large equipment or other situations where the need arises.
- I. Maintenance. All landscaping installed as required by this ordinance shall be maintained in perpetuity.

- J. Parking Lot Geometrics. The minimum length of parking stalls shall be modified in parking lots based on the aisle width and angle parking. Parking stalls shall conform to the following dimensions.

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

- K. Curbs or Barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- L. The Following Guide Specifies the Minimum Number of Parking Spaces Required. The reference herein to "the work shift with the largest number of employees" means the maximum number of full-time or part-time employees present at the facility at any one time. For example, the largest work shift may be a particular day of the week, or a lunch or dinner period in the case of a restaurant. The reference herein to "maximum capacity" means the maximum number of persons which may be accommodated by the use as determined by its design or by applicable building code regulations, whichever is greater. In the case of structures or uses not specified herein, the number of spaces specified for a use which is similar shall apply. In developments involving the establishment of two or more uses on one lot or parcel, 85 % of the number of spaces required for each use should determine the total number of spaces required at a minimum. The Plan Commission may require 100% of the required spaces if warranted by the uses.
- M. Drives. Where possible, parking drives are to be located centered on property line within side setbacks and shared by adjacent properties. Where a parking lot exists on an adjacent property immediately adjacent to a proposed parking lot, traffic drives are to be aligned to allow travel between neighboring parking lots.

(1) Residential Uses

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

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

- a. **Financial institutions:** four (4) per 1,000 square feet of gross floor area, plus one (1) space per employees for the work shift with the largest number of employees. Financial institutions with drive-through service facilities shall provide sufficient space for four (4) waiting vehicles at each drive-through service lane.
- b. **Funeral homes:** one (1) space per four (4) patron seats of maximum capacity of 25 spaces per chapel unit, whichever is greater.
- c. **Grocery stores or supermarkets:** four (4) spaces per 1,000 square feet of gross floor area of customer sales and service plus one (1) space per 200 square feet of storage and/or office gross floor area.
- d. **Motels and hotels:** one (1) space per room or suite, plus one (1) space per every two (2) employees for the work shift with the largest number of employees, plus one (1) space per three (3) persons of maximum capacity of each public meeting and/or banquet room.
- e. **Lodges and clubs:** one (1) space per three (3) persons based on the maximum capacity of the facility.
- f. **Repair services:** one (1) space per 300 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- g. **Restaurant, standard:** four (4) spaces per 1,000 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- h. **Theaters, auditoriums and other places of public assembly:** one (1) space per three (3) patrons based on the maximum capacity of the facility.
- i. **Personal services:** four (4) spaces per 1,000 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- j. **Convenience grocery stores:** one (1) space per 100 square feet of gross floor area.
- k. **Restaurants, with drive in and drive through lanes:** one (1) space per 50 square feet of gross floor area, plus one (1) space per two (2) employees for the work shift with the largest number of employees.
- l. **Taverns, dance halls, night clubs and lounges:** five (5) spaces per 1,000 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- m. **Motor vehicle sales establishments:** two (2) customer parking spaces per salesperson for the work shift with the largest number of salespersons, plus one (1) employee parking space per employee (including sales persons) for the work shift with the largest number of employees.
- n. **Motor vehicle repair, maintenance and service stations:** three (3) spaces per indoor service bay plus one (1) space per employee for the work shift with the largest number of employees.
- o. **Animal hospitals:** three (3) patron parking spaces per doctor, plus one (1) employee parking space for the work shift with the largest number of employees.

- p. **Plant nurseries and garden and lawn supply sales establishments:** one (1) space per 200 square feet of gross floor area of inside sales or display, plus one (1) space per 500 square feet of gross outside sales or display area, plus one (1) space per employee for the work shift with the largest number of employees.
- q. **Shopping centers:** (gross leasable area of at least 25,000 square feet): four (4) spaces per 1,000 square feet of gross leasable area.

(3) Offices

- a. **Medical, dental and similar professional health service offices:** three (3) patron parking spaces per doctor, plus one (1) parking space per employee for the work shift with the largest number of employees.
- b. **Government, professional and business offices:** four (4) spaces per 1,000 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

- (4) Commercial/Recreational Uses, except as specifically set for below: one (1) space per four (4) patrons based on the maximum capacity of the facility, plus one (1) space per two (2) employees for the work shift with the largest number of employees.

Other Commercial/Recreational Uses

- a. **Bowling alleys:** five (5) spaces for each lane, plus one (1) space per employee for the work shift with the largest number of employees.
- b. **Golf Courses:** ninety spaces per nine (9) holes, plus one (1) space per employee for the work shift with the largest number of employees.
- c. **Golf Driving Ranges:** one (1) space per tee, plus one (1) space per employee for the work shift with the largest number of employees.
- d. **Indoor tennis, racquetball and handball courts:** three (3) spaces per court, plus one (1) space per employee for the work shift with the largest number of employees.
- e. **Miniature golf courses:** one and one-half (1.5) spaces per hole, plus one (1) space per employee for the work shift with the largest number of employees.
- f. **Skating rinks, ice or roller:** one (1) space per 200 square feet of gross floor area.

(5) Institutional and Related Uses

- a. **Churches:** one (1) space per three (3) seats based on the maximum capacity of the facility.
- b. **Libraries:** one (1) space per 250 square feet of gross floor area or one (1) space per four (4) seats of maximum capacity, whichever is greater, plus one (1) space per employee for the work shift with the largest number of employees.

- c. **Museums:** one (1) space per 250 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- d. **Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories:** one (1) space per bed.
- e. **Convents and monasteries:** one (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats *if* the public may attend.
- f. **Nursing homes:** one (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
- g. **Hospitals:** two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee for the work shift with the largest number of employees.
- h. **Schools:**
  - 1) Elementary schools and high schools: one (1) space for each teacher and staff member, plus one (1) space for each 10 students 16 years of age and older.
  - 2) Colleges, universities, and trade schools: one (1) space for each teacher and staff member during the highest class attendance period, plus one (1) space for each two (2) students during the highest attendance period.
  - 3) Children's nursery schools or day schools: one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per six (6) students at the highest class attendance period.

**17.0504**

**DRIVEWAYS**

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

- A. Islands between driveway openings shall be provided with a minimum of six (6) feet between all driveways and three (3) feet at all lot lines. The Plan Commission may modify this - requirement where lots are so narrow as to require a shared driveway between two adjacent properties.
- B. Openings for vehicular ingress and egress shall not exceed 24 feet at the street line and 30 feet at the roadway. (See Section 17.0503B.)
- C. Vehicular Entrances and Exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; or garages shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

**17.0505 HIGHWAY ACCESS**

No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

- A. Arterial Streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
- B. Minor Land Access Streets intersecting an arterial street or another minor land access street within 50 feet of the intersection of the right-of-way lines.
- C. Access Barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- D. Temporary Access to the above rights-of-way may be granted by the Village Board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.

**SECTION 17.0600 MODIFICATIONS**

**17.0601 GENERAL**

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

**17.0602 HEIGHT**

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

- A. Architectural Projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys are exempt from the height limitations of this Ordinance.
- B. Special Structures, such as elevator penthouses, observation towers, and scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- D. Communication Structures, such as radio and television transmission and relay towers, aerials, roof-mounted satellite dish antennas, radio and television receiving and transmitting antennas shall not exceed in height three (3) times their distance from the nearest lot line and shall be subject to Section 17.0607.
- E. Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

**17.0603 YARDS**

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

- A. Uncovered Stairs, landings, and fire escapes may project into any yard but shall not exceed six (6) feet nor be closer than three (3) feet to any lot line.
- B. Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed one (1) foot.
- C. Fences, walls, and architectural screenings are permitted on the property lines in the side and rear yards, but shall not exceed four (4) feet in height. Patio fences shall not exceed six (6) feet in height and shall comply with the yard requirements for the district in which they are located.
- D. Decorative Fences, such as rail fences or picket fences may be placed in the street yard provided they shall not exceed three (3) feet in height and shall not be located closer than one (1) foot to the street right-of-way. Fences on corner lots shall comply with the traffic visibility requirements set forth in Section 17.0501 of this Ordinance.
- E. Accessory Structures under 150 sq. ft. such as garden or utility sheds, shall be placed or erected in the rear yard provided that no single accessory structure shall exceed 150 square feet in area; no structure shall be closer than 5 feet to the principal structure, no accessory structure shall exceed 12 feet in height; no accessory structure shall be located closer than three (3) feet to any lot line; and all accessory structures shall occupy not more than 20 percent of the rear yard area. One accessory structure under 150 sq. ft. is allowed on a residential parcel.
- F. Detached Accessory Buildings
  - 1. shall be placed or erected in the rear yard provided that not more than one (1) detached accessory building is permitted per dwelling unit; no detached accessory building shall exceed 625 square feet in area; no structure shall be closer than 5 feet to the principal structure, no detached accessory building shall exceed (20) feet in height; no accessory building shall be located closer than three (3) feet to any lot line; and all accessory structures combined shall occupy not more than 20 percent of the rear yard area. One detached accessory building is allowed on a residential parcel.
  - 2. Subject to the approval by the Plan Commission, one detached private garage not to exceed 625 square feet in area may be placed in a side yard on any property having a residence without an attached garage provided no such garage structure shall be closer than five (5) feet to the principle structure, no detached garage shall exceed twenty (20) feet in height nor shall it be closer than three (3) feet to any lot line. Detached garages may not be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of existing residences or adjoining properties, as determined by the Village of Thiensville Plan Commission.
- G. Satellite Dish Antennas are permitted on the roof of the principal structure in any district or may be located in the rear yard. Satellite dish antennas may be placed not closer than three (3) feet from any lot line or five (5) feet to an alley line provided that the antenna and its component parts do not exceed 15 feet in height. Satellite dish antennas shall be constructed and anchored in such a manner to withstand winds of 80 miles per hour, shall be constructed of noncombustible and corrosive-resistant materials, and should be shielded and/or filtered to prevent the emission and/or reflection of electromagnetic radiation that would interfere with radio and television reception on adjacent properties. There shall be not more than one satellite dish antenna on any residential property.
- H. Essential Services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.

I. Landscaping and vegetation are exempt from the yard requirements of this Ordinance.

**17.0604 AVERAGE STREET YARDS**

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

**17.0605 CORNER LOTS**

Lots having a frontage on two or more public streets shall be considered “corner lots” and shall have street or “front yards on that side of the principal structure abutting a street and any other yard shall be designated a “side yard”. Structure and use setbacks from streets and property boundaries on such corner lot shall be regulated as set forth in the district where the corner lot is located. The front street yard as required by this Ordinance is on the street that the structure faces. The second street yard shall be provided on the side of the structure abutting a second public or private street. On the second street yard of the side of the structure, a 20% reduction is allowable from the required street yard.

**17.0606 EXISTING SUBSTANDARD LOTS**

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

**17.0607 TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES**

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

It is intended that the Village shall apply these regulations to accomplish the following:

- (1) Minimize adverse visual effects of telecommunication towers, antennas and related facilities through design and siting standards.
- (2) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure

consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the police, fire and emergency response network.

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

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

E. **DEFINITIONS**

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

- (1) **Alternative Support Structure:** Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities.
- (2) **Antenna:** Any system or wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

- (3) **Antenna Building Mounted:** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.
- (4) **Antenna Ground Mounted:** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.
- (5) **Camouflaged Tower:** Any telecommunication tower that due to design or appearance entirely hides, obscures, or conceals the presence of the tower and antennas.
- (6) **Guyed Tower:** A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
- (7) **Height, Telecommunications Tower:** The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, protection devices (e.g. lightning rods) and lighting.
- (8) **Lattice Tower:** A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.
- (9) **Monopole:** A telecommunication tower of a single pole design.
- (10) **Navigable Stream or Lake:** As designated on the United States Geological Survey (USGS) map and/or the Village of Thiensville Zoning maps.
- (11) **Non-Conforming:** Any pre-existing telecommunications facility that was in existence prior to the adoption of this ordinance and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date of this Ordinance. This definition shall only apply to this specific Ordinance and shall not apply to other Village of Thiensville Zoning Ordinances.
- (12) **Operation:** Means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.
- (13) **Platform:** A support system that may be used to connect antennas and antenna arrays to telecommunication tower or alternative support structures.
- (14) **Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.
- (15) **Telecommunication Facility:** A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals, excluding those facilities exempted under Section 17.0607.
- (16) **Telecommunication Facility CoLocated:** A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

- (17) **Telecommunication Support Facility:** The telecommunication equipment buildings and equipment cabinets.
- (18) **Telecommunication Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under Section 17.0607.
- (19) **Utility Pole Mounted Antenna:** An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure approved by the Village of Thiensville Zoning Department.

**C. EXEMPT FROM VILLAGE REVIEW**

The following shall be permitted without Village approvals:

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

**D. AREAS PERMITTING TELECOMMUNICATIONS FACILITY LOCATION WITH CONDITIONAL USE APPROVAL**

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

**E. AREAS LIMITING TELECOMMUNICATION FACILITY LOCATION**

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

**F. CONDITIONAL USE APPLICATION**

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

- (1) **Submittal Information.** For all telecommunication facilities, except facilities as defined in Section 17.0607, the Village shall require the following information to

accompany every application. Said information shall include, but may not be limited to:

- a. Completed conditional use application and fee as determined by the Village.
- b. Original signature of applicant and land owner (if the telecommunication facility is located in an easement or pursuant to a ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application.)
- c. The identity of the carrier, provider, applicant, landowner and service provider and their legal status.
- d. The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application.
- e. A plat of survey, showing the parcel boundaries, tower, facilities, location, access, landscaping and fencing.
- f. A written legal description of the site.
- g. In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the tower owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
- h. A description of the telecommunications services that the applicant offers or provides, to persons, firms, businesses or institutions.
- i. Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.
- j. Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- k. An alternative analysis shall be prepared by the actual applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities as defined in Section 17.0607. Subject to the review and approval of the Village, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the Village.

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

- l. Plans indicating security measures (i.e. access, fencing, lighting, etc.)
  - m. Shall include a tabular and map inventory of all the applicants existing telecommunications towers that are located within Ozaukee County and including all of the applicants existing towers within fifteen hundred (1500) feet of the County boundary. The inventory shall specify the location, height, type and design of each of the applicants existing telecommunication towers, and the ability of the tower or antenna structure to accommodate additional co-location antennas.
  - n. A report prepared by an Engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas.
  - o. Proof of liability coverage.
  - p. Such other information as the Village may reasonably require.
  - q. Copies of Affidavit of Notification indicating that the airport operator and airport property owner(s), within the areas limiting telecommunication facility locations as identified under Section 17.0607, if applicable, have been notified via certified mail.
- (2) **CoLocation.** All tower owners shall make available unused space for colocation of other telecommunication facilities, including space for those entities providing similar, competing services. Colocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline. All colocated and multiple-user telecommunication support facilities shall be designed for compatible joining to facilitate site sharing. Towers shall be designed to support and provide room for at least two more carriers to colocate with a maximum of four carriers.
- (3) **Submittals required following the Conditional Use Approval.** For each conditional use permit approved the applicant shall submit the following before the conditional use permit will be used:
- a. Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings and the Wisconsin State Bureau of Aeronautics, if applicable.
  - b. Copies of any Environmental Assessment (EA) reports or Form 600 or Form 854 submitted to the Federal Communication Commission (FCC), if applicable.
  - c. Copies of any filings submitted to the Federal Communication Commission (FCC) shall be submitted within 30 days of filing, subject to the review of the Zoning Manager.
  - d. Proof of Bond as security for removal.

**G. ANNUAL INFORMATION REPORT**

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

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

**H. REMOVAL/SECURITY FOR REMOVAL**

- (1) It is that express policy of the Village and this ordinance that telecommunication facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications tower owner responsibility to remove such facilities and restore the site to its original condition or a condition approved by the Village Plan Commission. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to 10 feet below the surface. This depth of removal requirement may be modified by the Village after public hearing and review. After a telecommunications facility is no longer in operations, the tower owner shall have 90 days to effect removal and restoration unless weather prohibits such efforts.
- (2) Security for Removal. The telecommunications tower owner shall provide to the Village, prior to the issuance of the conditional use permit or the issuance of a zoning permit, a performance bond in the amount of twenty thousand dollars (\$20,000) or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the telecommunications facility will be removed when no longer in operation. The Village of Thiensville will be named obligee in the bond and must approve the bonding company.

**I. COMPLIANCE**

- (1) **Revocation.** Grounds for revocation of the conditional use permit shall be limited to one of the following findings as determined by the Village:
  - a. The owner of such site, service provider and/or tower owner fails to comply with the requirements of this ordinance as it existed at the time of the issuance of the conditional use permit

- b. The permittee has failed to comply with the conditions of approval imposed
- c. The facility has not been properly maintained

(2) **Abandonment.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Time may be extended upon review and approval of the Village Plan Commission, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:

- a. The owner of such antenna or tower shall remove said antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the Plan Commission notifying the owner of such abandonment. If removal to the satisfaction of the Plan Commission does not occur within said ninety (90) days, the Village of Thiensville may order removal utilizing the established bond as provided under Section 17.0607 and salvage said antenna or tower and all supporting equipment and building(s). If there are two or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.
- b. The recipient of a conditional use permit or zoning permit for a telecommunications facility under this ordinance shall notify the Village of Thiensville Plan Commission when the facility is no longer in operation.

J. **STRUCTURAL, DESIGN AND ENVIRONMENTAL STANDARDS** (except exempt facilities as defined in Section 17.0607)

(1) Tower, antenna and facilities requirements. All telecommunications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

- a. All telecommunication facilities shall comply at all times with all Federal Communication Commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal Government. All telecommunication tower and antenna shall meet or exceed the standard and use regulations, in place at the time of the issuance of the conditional use permit, of the Federal Aviation Administration (FAA), the Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), the Federal Communication Commission (FCC) and any other agency of the State and/or Federal Government with the authority to regulate towers and antennas

- b. Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted by the Village to be otherwise
  - c. All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted to the Village that a guyed tower is required
  - d. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function
  - e. Telecommunication support facilities (i.e., equipment rooms, utilities, and equipment enclosures) shall be constructed out of nonreflective material (visible exterior surfaces only). Telecommunications support facilities shall be no taller than one story fifteen feet (15') in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility; and
  - f. Telecommunication towers, facilities and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electric Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, Erosion Control and Stormwater Management Ordinance, Electronic Industries Association (EIA), American National Steel Institute Standards (ANSI), American National Standards Institute (ANSI), and Electronic Industry Assoc./Telecommunication Industry Association (EITT/TIA) 222-E.3., in effect at the time of manufacture.
  - g. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.
- (2) Height. The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crankup" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. The maximum height of telecommunication towers shall be subject to Section 17.0602D.
- (3) Lighting. Telecommunication towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority.
- (4) Site Development, Roads and Parking.

- a. All sites must be served by a minimum thirty (30) foot wide easement with a turn around. The Village of Thiensville Plan Commission may modify the easement and turn around requirement after public hearing and review. All sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the Village of Thiensville, State of Wisconsin Department of Transportation, or the applicable Township depending on road jurisdiction.

(5) Vegetation Protection and Facility Screening

- a. Except exempt facilities as defined in Section 17.0607, all telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation.
- b. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible of maintenance and replacement of all required landscaping during the current growing season.
- c. Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings, so as to reduce visual impacts.

(6) Fire Prevention. All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

(7) Noise. All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties.

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

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

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

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

- a. Two (2) towers may be permitted to be located within 100 feet of each other subject to Conditional Use review and approval of the Village and subject to meeting setback requirements.
  - b. Three (3) towers may be permitted subject to conditional use review and approval of the Village when needed to satisfy the requirements of AM Broadcast operation.
  - c. Camouflaged towers are exempt from separation between towers requirement listed above.
- (2) Setbacks. All setbacks shall be measured from the base of the tower or structure.
- a. Setbacks from all habitable residential buildings, except building located on the subject parcel. All new towers shall be setback a distance equal to 125% of the height of the tower.
  - b. Setbacks from all historic sites and districts. All new towers shall be setback a distance equal to 125% of the height of the tower from historic sites and districts.
  - c. Setbacks from the road right-of-ways of all streets. All new towers shall be setback from all streets a minimum as defined in the Village Zoning Ordinances.
  - d. Setbacks from property lines. All new towers shall be setback a minimum of fifty (50) feet from all property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.) This setback requirement may be modified by the Village after public hearing and review.
  - e. Setback from the Ordinary High Water Mark (OHWM). All new towers shall be setback a minimum of seventy Five (75) feet from the Ordinary High water Mark (OHWM) of a navigable stream and a minimum 125% of the tower height from the Ordinary High Water Mark (OHWM) of a navigable water way.
  - f. Guy Wire Anchor Setback. All guy wire anchors shall be at least twenty-five feet (25 feet) from all property lines. This setback requirement may be modified by the Village after public hearing and review.

**L. ZONING AND BUILDING PERMITS**

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

**SECTION 17.0800 NONCONFORMING USES, STRUCTURES AND LOTS**

**17.0801 EXISTING NONCONFORMING USES AND STRUCTURES**

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however:

- A. Only that Portion of the land or water in actual use may be so continued and the nonconforming use may not be extended, enlarged, substituted, or moved, except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- B. Total Lifetime Structural Repairs or alterations to a nonconforming structure shall not exceed 50 percent of the municipality's equalized value of the structure at the time of its becoming a Nonconforming structure unless it is permanently changed to conform to the use provisions of this Ordinance.
- C. Substitution of New Equipment may be permitted by the Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.

**17.0802 NONCONFORMING USES, STRUCTURES AND LOTS**

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

- (2) Adjoining Lots: When two or more lots with continuous frontage are in one ownership at any time after the adoption of this ordinance and such lots are individually less than the minimum area or width required in a district, such lots shall be considered as a single lot or (if sufficient land exists) several lots of required area and width and shall be combined to the extent necessary to achieve a lot or lots of the area and width required in the district. Such lots shall comply with all yard spaces and other dimensional requirements of the district.
- D. Nonconforming Structure: A lawful structure which existed at the time of adoption or amendment of this ordinance, but which does not comply with this ordinance by other restrictions relating to the structure, may be continued, so long as it remains otherwise lawful, subject to the following limitations:
- (1) Enlargement and Alterations: Nonconforming structures shall not be enlarged and shall not be altered in any way which increases their nonconformity, but may be altered to decrease their nonconformity.
  - (2) Moving: If nonconforming structures are moved, for any reason, they shall thereafter conform to the regulations of the ordinance.
  - (3) Repairs and Maintenance: Ordinary maintenance, repairs and alterations of a nonconforming structure are permitted, provided that they do not increase area or nonconformity. Normal maintenance, repairs, and alterations shall be considered work not exceeding fifty (50) percent of the structures replacement cost.
  - (4) Deteriorated and Dilapidated Structures: If any nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by an authorized official to be unsafe or unlawful by reason of its physical condition, the structure shall not be restored, repaired, or rebuilt except in conformity with this ordinance.
  - (5) Substantially Damaged Structures: If a nonconforming structure or nonconforming portion of a structure is damaged or destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at the time of the damage, it may be reconstructed only in conformity with this ordinance.
- E. Nonconforming Uses: A use of land/or structures which was lawful prior to the adoption of this ordinance, but which does not comply with the use regulations of this ordinance, may be continued, so long as it remains otherwise, subject to the following provisions:
- (1) Extension or Enlargement: No conforming use of land or structures shall be enlarged, expanded, increased, or extended beyond the floor space and land area occupied or be carried on in a more intensive manner than existed at the time of adoption of this ordinance, except that a nonconforming use may be extended within a building to any parts already clearly arranged and designed for such use.

- (2) Relocation on Lot: No nonconforming use of land shall be relocated or significantly rearranged in whole or in part on the same lot unless it thereafter conforms to this ordinance.
- (3) Discontinuance: If active operation of a nonconforming use is discontinued for any reason for a continuous period of 180 days, or suspended at any time by a permitted use, any subsequent use of the land shall conform fully to this ordinance.
- (4) Damage or Dilapidated Structure: If a structure or part thereof occupied by a nonconformity use is damaged, destroyed, or becomes deteriorated to an extent greater than fifty (50) percent of its replacement cost at the time of damage or discovery of deterioration, the structure may not be repaired for or to a nonconforming use.

**17.0803 ABOLISHMENT OR REPLACEMENT**

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

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

**17.0804 EXISTING SUBSTANDARD STRUCTURES**

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

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

**17.0805 CHANGES AND SUBSTITUTIONS**

Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with this Ordinance, it shall not revert back to a nonconforming use or substandard structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted use shall become subject to all the conditions required by the Board of Appeals.

**17.0806 FLOODLAND NONCONFORMING USES**

Floodland nonconforming uses repaired or altered under the nonconforming use provisions of this code shall provide for floodproofing to those portions of the structures involved in such repair or alteration. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood.

**17.0807 WETLAND NONCONFORMING USES**

Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction, renovating, remodeling, or expansion of a legal nonconforming structure, or any environmental control facility related to a legal nonconforming structure, located in the SWO Shoreland Wetland Overlay District and in existence at the time of adoption or subsequent amendment of this Ordinance is permitted pursuant to Section 61.351(5) of the Wisconsin Statutes.

**SECTION 17.0900 PERFORMANCE STANDARDS**

**17.0901 COMPLIANCE**

This Ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air, and waters shall hereafter, in addition to their use, site, and sanitary regulations, comply with the following performance standards.

**17.0902 AIR POLLUTION**

No person, operation, or activity shall exit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code. No person, operation or activity shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas.

**17.0903 FIRE AND EXPLOSIVE HAZARDS**

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed,- and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall comply with COMM 10.

**17.0904 GLARE AND HEAT**

No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

**17.0905 WATER QUALITY PROTECTION**

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Chapter NR-102 of the Wisconsin Administrative Code for all moveable waters in the County.

**17.0906 NOISE**

No activity in any district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (Cycles Per Second)	Sound Level (Decibels)
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
Above 4800	32

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Ordinance. There shall be a maximum noise level of 65 decibels measured from the lot line that is emanating from any site.

**17.0907 ODORS**

No operation or activity shall emit any substance or combination of substance in such quantities that create an objectionable odor as defined in Chapter NR 154.18 Wisconsin Administrative Code.

**17.0908 RADIOACTIVITY AND ELECTRICAL DISTURBANCES**

No activity shall emit radioactivity or electrical disturbances outside its premises that are danger or adversely affect the use of neighboring premises.

**17.0909 VIBRATION**

No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

(Cycles Per Second)	Frequency Outside the District	(Inches)
10 to 20	0 to 10	.0008
	20 to 30	.0005
	30 to 40	.0002
	40 and over	.0001

Vibrations shall be further subject to applicable Federal, State and local laws and regulations.

**17.0910 FLOODPROOFING**

Where floodproofing by means of elevating on fill is deemed inappropriate or impractical, and where floodproofing by means other than filling is permitted, floodproofing measures shall be in accordance with the following:

A. Floodproofing Measures shall be designed to:

- (1) Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the 100-year recurrence interval flood; and
- (2) Assure protection to an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood; and
- (3) Provide anchorage of structures to foundations to resist flotation and lateral movement; and
- (4) Insure that the structural walls and floors are watertight and completely dry without human intervention during flooding to a point at least two (2) feet above the elevation of the 100-year recurrence interval flood.

B. No Permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect certifying that the floodproofing measures are adequately designed to protect the structure or development to a point at least two (2) feet above the elevation of the 100-year recurrence interval flood for the particular area.

C. Floodproofing Measures may include, but are not limited to:

- (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
- (2) Addition of mass or weight to structures to prevent floatation;
- (3) Placement of essential utilities above the flood protection elevation;
- (4) Surface subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;
- (5) Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwaters into such systems;
- (6) Cutoff valves on sewer lines and the elimination of gravity flow basement drains; and/or
- (7) The construction of permanent or moveable watertight bulkheads, erection of permanent watertight shutter" and doors, and installation of wire reinforced glass or glass block for windows.

## **SECTION 17.1000 BOARD OF APPEALS**

### **17.1001 ESTABLISHMENT**

There is hereby established a Board of Appeals for the Village of Thiensville for the purpose of hearing appeals and applications and granting variances and exceptions to the provisions of this Ordinance in harmony with the purpose and intent of this Ordinance.

### **17.1002 MEMBERSHIP**

The Board of Appeals shall consist of five (5) members appointed by the Village President and approved by the Village Board. The Village President shall make his nominations at least one (1) month prior to their appointment. In addition:

- A. Terms shall be for staggered three-year periods, except that of those first appointed: one (1) shall serve for one (1) year, two (2) for two (2) years, and (2) for three (3) years.
- B. Two (2) Alternate Members may be appointed by the Village President for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of conflict of interest.
- C. The Zoning Administrator shall attend all meetings for the purpose of providing technical assistance when requested by the Board of Appeals.
- D. Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within 10 days of receiving notice of their appointment.
- E. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

### **17.1003 ORGANIZATION**

The Village Board herein adopts rules for the conduct of the business of the Board of Appeals in accordance with the provisions of this Ordinance. The Board may adopt further rules as necessary.

- A. Meetings shall be held at the call of the chairman and shall be open to the public.
- B. Minutes of the proceedings and a record of all actions shall be kept by the Board, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.

C. The Concurring Vote of four (4) members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a temporary, unclassified, or substituted use.

#### **17.1004 POWERS**

The Board of Appeals shall have the following powers:

- A. Errors. To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Zoning Administrator.
- B. Variances. To hear and authorize appeals for variances where owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. Such variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured.
- C. Special Exceptions. To hear and authorize special exceptions for all of the dimensional requirements of the zoning code, including height, setback and yards of each zoning district.
- D. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Zoning Administrator has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- E. Permits. The Board may reverse, affirm wholly or partly or modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made.
- F. Assistance. The Board may request assistance from other Village officers, departments, commissions, and boards.
- G. Oaths. The Chairman may administer oaths and compel the attendance of witnesses.

#### **17.1005 APPEALS AND APPLICATIONS**

Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the Village affected by the decision of the Zoning Administrator. Such appeals shall be filed in the Office of the Zoning Administrator within 90 days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed in the Office of the Zoning Administrator. Such appeals and application shall include the following:

- A. Name and Address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of Survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and approved by the Zoning Administrator, showing all of the information required under Section 17.1200 for a Zoning Permit.
- C. Additional Information, required by the Zoning Administrator, the Board of Appeals, or the Village Plan Commission.

**17.1006 HEARINGS**

The Board of Appeals shall fix a reasonable time and place for the hearing, publish a Class Two (2) notice thereof and shall give due notice to the parties in interest, the Zoning Administrator, and the Village Plan Commission. At the hearing the appellant or applicant may appear in person, by agent, or by attorney.

A. Due Notice of all hearings on floodland and wetland appeals, applications for variances to the floodland or wetland provisions of this Ordinance, or for floodplain or wetland mapping disputes shall be given to the Wisconsin Department of Natural Resources (DNR) at least 10 days prior to the hearing. Final action on applications shall not be taken for 30 days or until the DNR has made its recommendations, whichever comes first. A copy of all decisions relating to floodland or wetland appeals, variances to floodland or wetland regulations, or floodplain or wetland mapping disputes shall be transmitted to the DNR within 10 days of the effective date of such decision.

**17.1007 FINDINGS**

No variance or special exceptions to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- A. Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
- B. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
- C. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- D. Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- E. Absence of Detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- F. Additional Requirements in Floodland Districts. No variance shall be granted where:
  - (1) Filling and development contrary to the purpose and intent of the FW floodway district would result.
  - (2) A change in the boundaries of the FU floodway district or the FFO floodplain fringe overlay district would result.
  - (3) A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval flood for the particular area would result.
  - (4) Any action contrary to the provisions of Chapter NR 116 of the Wisconsin Administrative Code would result.

**17.1008 FLOODLAND AND WETLAND MAPPING DISPUTES**

- A. Floodland Disputes. Whenever the Board of Appeals is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal Flood Insurance Study and actual field conditions, the following procedure shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study, or where such information is not available, by experience flood maps or any other evidence available to the Board of Appeals. The person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. There it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the Village Plan Commission of its findings and the Plan Commission shall proceed to petition the Village Board for a map amendment.
- B. Wetland Disputes. Whenever the Board of Appeals is asked to interpret a SWO Shoreland Wetland Overlay District boundary where an apparent discrepancy exists between the Village's Final Wetland Inventory Map and actual field conditions, the Village shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the Village Plan Commission to initiate appropriate action to rezone the property within a reasonable amount of time.

**17.1009 DECISION**

The Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator. In addition:

- A. Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- B. Variances, Substitutions or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- C. Applicants Receiving Variances in Floodlands shall be notified in writing by the Board of Appeals that increased flood insurance premiums may result from the granting of the variance. The Board shall keep a permanent record of the notification in its files.

**17.1010 REVIEW BY COURT OF RECORD**

Any person or persons aggrieved by any decision of the Board of Appeals may present to the court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board.

**SECTION 17.1100 CHANGES AND AMENDMENTS**

**17.1101 AUTHORITY**

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

**17.1102 INITIATION**

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

**17.1103 PETITIONS**

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- A. Plot Plan drawn to a scale of one (1) inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
- B. Owners' Names and Addresses of all properties lying within 100 feet of the area proposed to be rezoned.
- C. Additional Information required by the Plan Commission, or Village Board.

**17.1104 RECOMMENDATIONS**

The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Village Board.

**17.1105 HEARINGS**

The Village Board shall hold a public hearing upon each proposed change or amendment recommended by the Plan Commission, giving notice of the time, place, and the change or amendment proposed by publication of a Class Two (2) notice, pursuant to Chapter 985 of the Wisconsin Statutes. The Village Board shall also give at least 10 days prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

**17.1106 VILLAGE BOARD ACTION**

Following such hearing and after careful consideration of the Plan Commission's recommendations, the Village Board shall vote on the passage of the proposed change or amendment.

**17.1107 FLOODLAND DISTRICT BOUNDARY CHANGES LIMITED**

The Village Board shall not permit changes to the floodland district boundaries that are inconsistent with the purpose and intent of this Ordinance; or in conflict with the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA).

- A. Changes in the FW Floodway District Boundaries shall not be permitted where the change will increase the flood stage elevation 0.01 foot or more unless the petitioner has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase. In no event shall a change be permitted that would increase the flood stage elevation by more than 1.0 foot. Petitions for Floodway District changes shall show the effects of the change within the associated flood fringe utilizing the single degree of hydraulic encroachment principle, and shall provide adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations.

- B. Removal of Land from the Floodland Districts shall not be permitted unless the land has been filled to an elevation at least two feet above the elevation of the 100-year recurrence interval flood and provide that such land is contiguous to lands lying outside of the floodlands.
- C. Amendment of Floodlands Which Were Delineated by Approximate Methods shall not be permitted unless the petitioner provides the Village with engineering data showing the flood profile, necessary river cross-sections, flood elevations, and any effect the establishment of a floodway/flood fringe will have on flood stages. The effects shall be limited as set forth above for changes in the FW Floodway District. If the Approximate Flood Zone is less than five acres in area and where the cost of the proposed development is estimated to be less than \$125,000, the Department of Natural Resources (DNR) will assist the petitioner in determining the required flood elevations.
- D. No River or Stream Shall be Altered or Relocated until a floodland zoning change has been applied for and granted in accordance with the requirements of this Section, and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood carrying capacity of the altered or relocated watercourse shall not be reduced to less than the flood carrying capacity before the watercourse was altered or relocated.
- E. Notice to DNR: A copy of all notices for amendments or rezoning in the Floodland Districts shall be transmitted to the Wisconsin Department of Natural Resources (DNR). No amendments to the floodland district boundaries or regulations shall become effective until approved by the DNR. In the case a floodland district boundary changes, an official letter of map amendment from the Federal Emergency Management Agency may also be required.

**17.1108 AMENDMENTS TO SHORELAND WETLAND OVERLAY DISTRICTS**

- A. The Village shall Transmit a Notice of any change (text or map) in the SWO Shoreland Wetland Overlay District to the Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:
  - (1) A copy of every petition for a text or map change mailed within five days of filing with the Village Clerk.
  - (2) At least 10 days prior notice of any public hearing on a SWO Shoreland Wetland Overlay District zoning amendment.
  - (3) Notice of a Village Plan Commission recommendation no later than 10 days following the recommendation.
  - (4) Notice of a Village Board decision no later than 10 days following the decision.
- B. No Wetland in the SWO Shoreland Wetland Overlay District shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the discharge of groundwater from the wetland to another area, or the flow of groundwater through a wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning, breeding, nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest, including scarce wetland types.

- C. If the DNR has notified the Village Plan Commission that an amendment to the SWO Shoreland Wetland Overlay District may have a significant adverse impact upon any of the criteria listed in Paragraph B above, that amendment, if approved by the Village Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed since written notice of the Village Boards approval of this amendment was mailed to the Department of Natural Resources. During that 30-day period, the Department of Natural Resources may notify the Village Board that it will adopt a superseding Shoreland ordinance for the Village pursuant to Section 62.231 of the Wisconsin Statutes. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the Section 62.231 adoption procedure is completed or otherwise terminated."

#### **17.1109 PROTEST**

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20 percent or more either of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto exceeding 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership.

### **SECTION 17.1200 ADMINISTRATION**

#### **17.1201 PLAN COMMISSION**

The Village Plan Commission shall have the duties of making reports and recommendations relating to the plan and development of the Village to public officials, agencies, public utility companies, civic, educational, professional, and other organizations, and citizens. The Plan Commission shall hear and decide interpretations of the zoning code regulations and location of the boundaries of the zoning district. The Plan Commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.

#### **17.1202 ZONING ADMINISTRATOR DESIGNATED**

The Village Administrator or his designee is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue, after onsite inspection, all permits required by this Ordinance. The Zoning Administrator shall further:

- A. Maintain Records of all permits issued and inspections made, work approved, and other official actions.
- B. Record the First Floor and Lowest Floor (basement or crawlway) Elevations of all structures erected, moved, altered, or improved in the floodland districts.
- C. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
- D. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Village Attorney in a manner specified by him.
- E. Assist the Village Attorney in the prosecution of Ordinance

- violations.
- F. Be Permitted Access to premises and structures during reasonable hours to make those inspections as deemed necessary by the Zoning Administrator to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of identification, he may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.
  - G. Prohibit the use or erection of any structure, land, or water until he has inspected and approved such use or erection.
  - H. Request Assistance and cooperation from the Village Police Department and Village Attorney as deemed necessary.
  - I. Make Available to the Public, to the fullest extent possible, all reports and documents concerning the Village's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The Plan Commission may set fees necessary to recover the cost of providing information to the public. Where useful, the Zoning Administrator, or Administrators agent, may set marks on bridges or buildings or other markers may be set to show the depth of the 100-year recurrence interval flood; or may set marks delineating the boundaries of wetlands.
  - J. Determine whether or not specific ordinance requirements shall be waived and a permit should be issued in situations where the applicant alleges that he or she is handicapped or disabled and is entitled to "reasonable accommodations" under the federal Fair Housing Act, 42 U.S.C. aa3601-3631, or the Wisconsin Open Housing law S.106.04, Wisconsin Statutes, or where the owner of a place of public accommodations alleges that certain zoning restrictions must be waived in order to make the public accommodations accessible to the disabled.

### 17.1203 ZONING PERMIT

Permit Required. No building shall be erected, added onto, moved or structurally altered until a zoning permit has been applied for and issued.

Applications for a zoning permit shall be made to the Zoning Administrator on forms furnished by the Village Clerk and shall include the following where pertinent and necessary for proper review:

- A. Names and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
- B. Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. Plat of Survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and approved by the Zoning Administrator showing the location, boundaries, dimensions, uses, and size of the following:

- (1) Subject Site
  - (2) Existing and proposed structures
  - (3) Existing and proposed easements
  - (4) Streets and other public ways
  - (5) Off street parking
  - (6) Existing highway access restrictions
  - (7) High water
  - (8) Channel, floodway, and floodplain boundaries
  - (9) Existing and proposed street, side and rear yards
- D. Additional Information as may be required by the Village Plan Commission or the Zoning Administrator in situations where the applicant is requesting that certain zoning restrictions be waived in order to provide equal housing opportunities, or access to public accommodations, for a handicapped or disabled person, the following should be included:
- (1) The nature of the handicap or disability.
  - (2) An explanation of the need for a waiver of specified zoning restrictions.
  - (3) A discussion of alternative solutions that have been considered, if any.
- E. A Zoning Permit shall be granted or denied in writing by the Zoning Administrator within 30 days of application and the applicant shall post such permit in a conspicuous place at the site. The permit shall expire within six (6) months unless substantial work has commenced, or within 18 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, and the applicant shall reapply for a zoning permit before commencing work on the structure. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. Permits that authorize "Reasonable Accommodations" for handicapped persons:
- (1) The zoning administrator shall issue a zoning permit that waives specified zoning ordinance requirements if the zoning administrator determines that both of the following have been met.
    - a. The accommodation (i.e., the waiver of zoning restrictions) that has been requested, or another less extensive accommodation, is necessary to afford equal housing opportunity, or equal access to public accommodations, for disabled or handicapped persons, and is the minimum accommodation that will give the handicapped or disabled persons adequate relief.
    - b. The accommodation will not unreasonably undermine the basic purposes that the zoning ordinance seeks to achieve.
  - (2) If the zoning administrator issues a zoning permit to a handicapped or disabled person, or to the owner of a place of public accommodation, that waives certain specified zoning requirements, the permit shall state that:
    - a. Issuance of the permit is required by the Federal Fair Housing Act, and the Wisconsin Open Housing Law, or the Americans with Disabilities Act.
    - b. Where appropriate, the zoning administrator shall attach to the permit the condition that the building addition or other structure (such as entrance ramps) that is authorized by the permit must be constructed in such a way that it can easily be removed when the handicapped or disabled person no longer occupies the property. If such a condition is attached to the permit, the property owner is required by this ordinance to notify the zoning administrator no later than 30 days after the handicapped or disabled person vacates the property.

**17.1204 OCCUPANCY PERMIT REQUIRED**

An occupancy permit shall be required in the following instances:

- A. No Vacant Land shall be occupied or used; and no building or premises shall be erected, altered, or moved, or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until a certificate of occupancy permit has been issued by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such certificate shall be applied for at the time of occupancy of any land and/or building.
- B. No Undeveloped Land Within the Floodland Districts shall be occupied or used, and no structure hereafter erected, altered, or moved shall be occupied until the applicant submits to the Zoning Administrator a certification by a registered professional engineer or land surveyor that the floodplain regulations set forth in this Ordinance have been fully complied with. Such certification shall include the first floor elevation of any structure erected on the site.
- C. No Building located in a business or industrial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new certificate of compliance by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of the Zoning Ordinance, Building Code, Electrical Code, Fire Prevention Code and the Plumbing Code of the Village of Thiensville and State of Wisconsin. Such certificate of compliance to occupy a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner.
- D. Application for Certificate of Occupancy shall be made in the same manner as for a zoning permit pursuant to Section 17.1203 of this Ordinance.
- E. Existing Uses. 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 the adoption of this Ordinance, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this Ordinance.

**17.1205 CONDITIONAL USE PERMIT**

The Village Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community. Application for conditional use permit. Application for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Village Clerk and shall include the following where pertinent and necessary for proper review by the Plan Commission.

- A. Names and Addresses of the applicant, owner of the site, architect, professional engineer, contractor, when engaged, and all opposite and abutting property owners of record.

- B. Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. Plat of Survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale and approved by the Zoning Administrator, showing all of the information required under Section 17.1203(c) for a zoning permit and in addition, areas subject to inundation by floodwaters.
- D. In Areas Subject to Inundation by floodwaters, the plat of survey shall also include first floor elevations, utility elevations, historic and probable future floodwater elevations of depth of inundation, floodproofing measures, and plans for proposed structures, giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structures or its effects on flood flows. Where floodproofing is required, the applicant shall submit a plan or document certified by a registered professional engineer or architect, that the floodproofing measures are adequate to withstand the flood forces and velocities associated with the 100-year recurrence interval flood. Prior to the issuance of certificate of compliance, the applicant shall also submit a certification by the registered professional engineer that the finished floodproofing measures were accomplished in compliance with the provisions of this Ordinance.
- E. In Addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site; soil mapping unit lines, types and slopes, ground surface elevations; mean and historic highwater lines, on or within 40 feet of the subject premises, and existing and proposed landscaping when so required by the Plan Commission.
- F. Additional Information, as may be required by the Village Board, Village Plan Commission, Village Engineer, or the Zoning Administrator.
- G. Review and Approval. The Village Plan Commission shall review the site, existing and proposed structures, neighboring uses, parking areas, driveway locations, highway access, traffic orientation and circulation, drainage, sewerage and water systems, and the proposed operation; also conditions such as landscaping, type of construction, construction commencement and completion dates, sureties, lighting.
- H. Hearings. The Plan Commission shall fix a reasonable time and place for the hearing, publish a Class Two (2) notice thereof and shall give due notice to the parties in interest and Zoning Administration. At the hearing the applicant may appear in person, by agent, or by attorney.

**17.1206 NOTICE TO DNR**

The Zoning Administrator shall transmit a copy of each application for a conditional use permit in the FW Floodway District, The FFO Floodplain Fringe Overlay District, and the SWO Shoreland Wetland Overlay District to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to the public hearing. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions granting conditional uses in the FW Floodway District, the FFO Floodplain Fringe Overlay District, and the SWO Shoreland Wetland Overlay District shall be transmitted to the DNR within ten (10) days of the effective date of such decision.

**17.1206.1 PROHIBITION OF PERMIT OR LICENSE ISSUANCE TO PERSONS WHO HAVE NOT PAID OVERDUE FORFEITURES OR TAXES**

The issuance of any license or permit under this section may be withheld from any person who has not yet paid an overdue forfeiture resulting from a violation of a Village Ordinance, unless the forfeiture is being appealed.

The issuance of any license or permit may be withheld under this section to any premises of license where there are outstanding municipal taxes, including but not limited to, real estate taxes and assessments and personal property taxes.

**17.1207 SITE PLAN AND ARCHITECTURAL REVIEW**

Site plan reviews of developments in certain districts are deemed necessary and appropriate to preserve and promote attractive, well-planned, and stable urban conditions. For the purpose of promoting stability of property values and to prevent impairment, or depreciation of property values, no person shall commence any use or erect any structure in the R-1, R-2 and R-3 Residential districts, without first obtaining the approval of detailed site and architectural plans as set forth in this section by the Plan Commission. The site plan review ensures the compatible interaction of the site plan elements with conditions both on and of the subject property and ensures the site plans conformance with the regulations, provisions and general intent of this ordinance and other ordinances. All other districts shall require approval by the Plan Commission for compliance with site plan and architectural requirements.

The Zoning Administrator shall review the site plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, drainage, sewerage and water systems, and utilization of landscaping and open space as deemed appropriate for all development in the R-1, R-2, and R-3 residential districts. The Zoning Administrator shall grant or deny associated Zoning Permit applications, or refer applications to the Plan Commission for further consideration. In addition, the Zoning Administrator shall review sign permit applications in all districts, grant or deny the permit, or refer the application to the Plan Commission for further consideration.

A. **Principles.** To implement and define criteria for the purposes set forth above, the following principles are established:

- (1) No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- (2) No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.
- (3) No building shall be permitted where any exposed facade is constructed or faced with a finished material, which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- (4) No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse affect on the beauty and general enjoyment of existing structures on adjoining properties.

- (5) No fence shall be permitted the design of which would destroy or substantially damage or detract from the natural beauty of an area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties. It is the policy of the Village to allow only limited fence construction.
- (6) No building or use shall be permitted that would have negative impact on the maintenance of safe and healthful conditions in the Village.
- (7) Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed.
- (8) Buildings and uses shall provide for safe traffic circulation and safe driveway locations.
- (9) Buildings and uses shall provide adequate parking and loading areas.
- (10) Buildings and uses shall be provided with adequate public services.
- (11) Buildings and uses shall make appropriate use of open spaces and the Village Plan Commission may require appropriate landscaping and planting screens.

- B. **Sureties.** The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule.
- C. **Appeals.** Any person or persons aggrieved by any decisions of the Plan Commission related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Village Clerk within 30 days after filing of the decision with the Zoning Administrator.

#### **7.1208 SITE PLAN REQUIREMENTS**

No land shall be used, occupied, or developed for any use without complying with the requirements and procedures provided in this section. Application for a site plan shall be filed with the Village by the owner or an authorized representative of the land to be included within such plan and shall include the following information:

1. Boundary survey and legal description
2. Proof of ownership current within 120 days
3. Land area to be included in the plan, present zoning of the land area, present zoning of abutting properties, alignment of all public and private right-of-way bounding and intersecting the designated areas, which are proposed to be dedicated, continued, relocated or abandoned with public and private right-of-way existing on abutting property, lot lines and lot design.
4. Proposed finished grade of the site, shown in contour intervals not to exceed two feet.
5. Types of surfacing, such as paving, turfing or concrete to be used on the developed site.
6. A landscape plan showing the sizes and types of all landscaping materials to be used and the method of irrigation to be used at all locations within the site.
7. Separate drawings showing architectural elevations. Such drawings should be at a scale of not less than one-eighth inch equals one foot and should also include representations of fences, walls, signs, screening, outdoor waste disposal areas and rooftop mechanical units.

8. Locations for the following facilities and features:
  - A. All existing and proposed utility easements, water and sewer lines.
  - B. All curb cuts, driving lanes, parking areas, including off street parking areas, garages, carports, loading areas, public transportation point and illumination facilities.
  - C. All signs with size, design type, height and orientation.
  - D. Existing and proposed structures, the uses to be contained therein, heights of all structures, gross floor areas, locations of enhances and loading points.
9. Locations of all common areas with all structures and improvements.
10. Location and sizes of drainage facilities, direction of flow, areas drained by the facilities, and any other information that shows the collection, transporting and disposal of runoff from precipitation on the site.
11. The following identifying information shall be shown on each site plan:
  - A. Title under which the proposed site plan is to be recorded or filed.
  - B. Names of all adjoining subdivisions with lines of abutting lots.
  - C. Owner; names and addresses and departing property lines of adjoining properties, subdivided or not.
  - D. Names and widths of existing streets and alleys.
  - E. Date, month, arrow, scale.
  - F. Name of registered surveyor, licenses to practice in the state, who is platting the tract.

#### **17.1209 CRITERIA FOR REVIEW AND APPROVAL**

Approval of site plans or preliminary development plans under this section may include conditions or limitations. The following criteria shall be considered by the Planning Commission in reviewing applications under this division:

1. Consistency with Comprehensive Plan: The proposed site plan is consistent with the spirit and intent of the comprehensive plan and with this section, it would not be contrary to the general welfare and economic prosperity of the Village or the immediate neighborhood and it has been prepared to achieve the benefits of improved design.
2. Density: Any proposed residential development includes densities consistent with the zoning and preliminary development plan for the property that are compatible with or specific steps are taken to achieve compatibility with adjacent development and land uses.
3. Compatibility with Surrounding Uses: The proposed development will be compatible with the character of adjacent development uses.
4. Impact on Existing Village Infrastructures and Public Improvements: The proposed development does not result in undue or unnecessary burdens on the Villages existing infrastructure and public improvements, or that arrangements are made to mitigate such impacts.
5. Internal Efficiency of Design: The proposed design of the site plan achieves internal efficiency for its residents, adequacy of recreation, public access, safety and other factors, including but not limited to storm drainage facilities, sewer and water facilities, grades, dust control and matters relating directly to public health and convenience.
6. Control of External Effects: The proposed development controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent

nuisances, landscaping, features to prevent littering or accumulation of trash, and other factors deemed to affect public health, welfare, safety and convenience.

7. Architectural Elevations: Required architectural elevations submitted with the site plan are acceptable. Renderings and elevations should reflect conditions, as they will appear upon completion of the development. Elevations should provide evidence of how compatibility with adjacent development will be achieved, internal consistency of design, and satisfaction of the Village of Thiensville design guidelines in the Architectural Guideline.
8. Adequacy of Traffic and Circulation Plans: Designs and efficiency of traffic plan, vehicular and pedestrian circulation, adequacy and convenience of resident parking and guest parking, proportion of compact car spaces, width and construction of streets, and linkage of collector streets to the arterial street system are adequate.
9. Zoning and Code Requirements: The proposal conforms to all applicable requirements of this code, the underlying zoning, and preliminary development plan.
10. Outdoor Lighting Installations: It is the purpose and intent of this section to regulation and reduce the nuisance caused by unnecessary intensity of artificial illumination of property and buildings, to preserve the rural character of the Village of Thiensville, to promote the safety and welfare of its citizens by restricting glare producing sources of light and generally establish proper levels of lighting.
  - A. Definitions:
    - (1) **Height**. The height of a light structure shall be the vertical distance between the uppermost extremity of any light structure, pole or supporting member and the grade level.
    - (2) **Luminaries**. A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.
    - (3) **Cutoff Luminaries**. Any luminary that does not emit at an angle greater than 90 degrees from vertical and has less than ten (10) percent of maximum candlepower above 75 degrees.
    - (4) **Light Source**. A single artificial point source of luminescence.
  - B. General Regulations. The following regulations shall apply to all luminaries installed, erected or maintained in any zoning district.
    - (1) No light structure shall exceed 20 feet in height unless otherwise approved in accordance with this section.
    - (2) Unless otherwise approved in accordance with this section, all luminaries shall be of a cutoff design and shall be shielded or directed so as to confine the area of light dispersion to the property and/or building area which it is intended to illuminate. More specifically, all lighting installations shall conform to the following standards:
      - (3) Lighting wattage shall generally not exceed 250 watts.
      - (4) Ground mounted lighting. All grounds mounted luminaries designed or intended for purposes of illuminating building, signs, flagpoles or other onsite amenities shall be completely screened with vegetative cover or other materials as approved by the Plan Commission in order to fully shield the light source from public view.
      - (5) Building lighting. All luminaries designed or intended for purposes of lighting any building on the premises shall limit, to the greatest extent possible, spill-over of light into the sky. Building mounted lighting shall be appropriately shielded to prevent glare.

- (6) No site shall have lighting at the perimeter of the parcel that exceeds 2 luminaries measured in any direction 2' from grade.
  - (7) Lighting all site fixtures are to be Metal Halide, or Mercury vapor high intensity discharge. Sodium vapor lamps are not allowed.
- C. Permits. Prior to the erection, installation or placement of any exterior artificial light source, an application for permit shall be filed with the Building Inspector. All applications shall include a scaled plan depicting the proposed number, specific locations, intensity (stated in wattage and lumens), manufacturer's fixture cutsheet and the type of illumination of all light sources. The plans submitted in compliance hereto shall not necessarily be deemed sufficient to fulfill the technical requirements of the building and electrical ordinance of the Village but are in addition thereto.

Any permit issued by the building or electrical inspector under the provisions of this section shall expire and be null and void if not implemented within six months of the date of approval. Whenever a permit is granted in conjunction with a site plan approval, such permit shall be valid for the same time period as the related site plan.

- D. Prohibitions. The following type of lighting shall be prohibited except as otherwise approved in accordance with subsection (f) of this section.
- (1) Any artificial light source that creates glare within the normal range of vision from any public walk or thoroughfare under normal weather conditions.
- E. Effect of adoption of this section.
- (1) For any establishment having existing light sources that do not wholly comply with the provisions of this ordinance, all future Plan Commission approvals related to such establishments shall be subject to approval of an outdoor lighting plan in conformance with this section.
- F. Exceptions
- (1) The Plan Commission may, in its judgement, waive or modify the provisions of this subsection where, in their opinion, it would further the public interest.

## **17.1210 ARCHITECTURAL REVIEW**

- F. General Guidelines
- (1) Architectural design shall be compatible with the developing character of the neighboring area. Design compatibility includes complementary building style, form, size, color and material.

- (2) Exterior building design and detail on all elevations shall be coordinated with regard to color, types of materials, number of material, architectural form, and detailing to achieve harmony and continuity of design.
- (3) Commercial and residential buildings shall be sited to provide functional, livable outdoor spaces, and public spaces, which enhance the use of the building and, to the greatest extent possible, the neighboring buildings.
- (4) The visibility of roof top equipment should be minimized by grouping all plumbing vents, ducts and roof top mechanical equipment away from the public view. This guideline is primarily focused upon commercial and multiple family residential projects.
- (5) All vents, gutters, downspouts, flashing, electrical conduits, etc., shall be painted to match the color of the adjacent surface, unless being used expressly as a trim or accent element.
- (6) Soffits and other architectural elements visible to the public but not detailed on the plans shall be finished in a material compatible with other exterior materials.
- (7) No new building or remodeling of an existing structure shall use mill finish (non-colored) aluminum metal windows or door frames unless specifically requested by the applicant and approved by the Plan Commission.
- (8) Standards for temporary buildings are the same as those for permanent buildings. Permanent landscaping is required.
- (9) New or remodeled commercial buildings shall comply with the standards in the Village's Architectural Guideline.

B. Single Family Residential Guidelines

- (1) Houses with identical or similar building elevations and/or floor plans shall not be located on adjacent lots or directly across the street from each other. Where a single house design is used repeatedly, materials and detailing of major façade elements shall be waived.
- (2) Building facades should be articulated by using color, arrangement, or change in materials to emphasize the façade elements. Design elements and detailing shall be continued completely around the structure. Such design elements shall include window treatments, trim detailing, and exterior wall materials.
- (3) The location of the house on the lot, windows, orientation, building height, and location of onsite open spaces shall consider preservation of the privacy of adjacent development.
- (4) Compatible (not duplicate) color schemes shall be provided for homes or adjacent lots.
- (5) New housing development shall avoid front elevations, which mainly consist of rows of garage doors.
- (6) All doors and windows, etc., shall be detailed to add visual interest to the façade unless such treatment would be incompatible with the architectural style of the building.
- (7) All vents, gutters, downspouts, flashings, electrical conduits, etc., shall be painted to match the color of the adjacent surface, downspouts or rain water leaders shall be located on the inside corners of the structure.
- (8) Residential air conditioning units should be located to have the minimum visual and noise impacts on adjacent residential neighbors.

C. Multiple Family Residential Guidelines

- (1) New multiple family residential development shall respect the scale and character of the adjacent residential neighborhood through attention to views, building scale and orientation, proximity to adjacent uses, location of driveways, noise, lighting and landscaping.
- (2) Building facades should be articulated by using color, arrangement, or change in materials to emphasize the façade elements. Extremely long facades shall be designed with sufficient building articulation, reveals and in some cases, landscaping to avoid a momentous or overpowering institutional appearance.
- (3) Exterior site design and landscaping shall provide functional recreational spaces and/or community site amenities. Exterior spaces shall be designed to enhance the overall appearance and compatibility of such development by providing privacy, buffering and daylight, and to provide a pleasant transition to the street right-of-way.
- (4) All trash enclosures shall be constructed of sturdy opaque materials (with trash receptacles screened from view) which are in harmony with the architecture and materials of the principle buildings.

D. Central Business District Guidelines

The design objective in Central Business Districts is to create a high quality, pedestrian scale, and walkable areas with a traditional downtown atmosphere. Site and building design should address pedestrian needs and develop creative approaches to improving pedestrian interest, access and enjoyment. New buildings or alterations to existing building shall comply with the Village of Thiensville Architectural Guideline.

- (1) The sequence of continuous pedestrian activity shall not be interrupted. Blank wall and other "dead or dull spaces at the street level shall be avoided."
- (2) Frontage design and signage locations shall be coordinated with streetscape landscaping.
- (3) Building frontages should be active, with large non-reflective minimally tinted window openings cut ground level.
- (4) Frequent street-facing pedestrian entrances shall be provided.
- (5) Parking facilities, particularly surface parking lots, shall be located in the interior of the block wherever possible, to encourage continuity of the street frontage.
- (6) Driveway openings along public streets should be minimized and should be located on the street with the least traffic volume.

E. Other Business District Guidelines

- (1) A unified architectural design intention should be incorporated into each commercial center.
- (2) The appearance of a "sea of asphalt" parking lot in the front of the center shall be avoided. Both perimeter and interior parking lot trees shall be provided for shade and visual relief in the parking area while maintaining view corridors to the storefront areas.
- (3) Truck delivery and circulation drives should be separated from customer circulation through the site. Delivery and service activities should be designed to take access from the least traveled street adjacent to the project.
- (4) Shopping cart storage areas shall be incorporated into the building design. The building design shall be incorporated into a shopping cart storage area.

- (5) All buildings or alterations shall comply with the Village's Architectural Guideline dated September 18, 2000.

**17.1211 PERMIT FEES**

All persons, firms, or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Village Clerk to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The fee for permits shall be as follows:

<b>Amendment to Ordinance (map or text).....</b>	
<b>Planned Unit Development Overlay .....</b>	
<b>Variance or Appeal Request.....</b>	
<b>Conditional Use Permit.....</b>	
<b>Site Plan Review.....</b>	<b>Fees to be determined</b>
<b>Combination of Architectural and Site Plan Review .....</b>	<b>by the Village Board</b>
<b>(Commercial – agenda item for Plan Commission)</b>	
<b>Rezoning Requests.....</b>	
<b>Annexation Requests.....</b>	

**17.1212 DOUBLE FEE**

A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

**17.1213 VIOLATIONS**

It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Ordinance. In case of any violation, the Village Board, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation, may institute appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed.

**17.1214 REMEDIAL ACTION**

Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board, the Zoning Administrator, or the Village Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

**17.1215 PENALTIES**

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance or any order of the Zoning Administrator issued in accordance with this Ordinance or resists enforcement shall, upon conviction thereof, forfeit not less than \$10 nor more than \$200 and costs of prosecution of each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

**17.1216 REVIEW COSTS**

Review Costs. The Village Administrator or Planning Commission may request the Village Engineer, Village Attorney, or any other consultant or expert to review applications for development permits or other types of permits required by this chapter. The cost of all such reviews shall be borne by the applicant. The Village reserves the right to require an escrow account be established for the purpose of providing funds for anticipated review costs.

## **SECTION 17.1300 DEFINITIONS**

For the purpose of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.

A. A Zones

Areas of potential flooding shown on the Village's Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These numbers as A0, A1 to A99, or be 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.

B. Accessory Use or Structure

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

C. Alley

A special public right-of-way affording only secondary access to abutting properties.

D. Arterial Street

A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways, and parkways.

E. Banner

A temporary sign normally made of vinyl paper material or a flexible material.

F. Boarding House

A building, other than a hotel or restaurant, where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

G. Buffer Yard

A unit of land which may contain plantings, or other visual and sound barriers, intended to eliminate or minimize conflicts between adjacent land uses.

H. Building

Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

I. Building Area

The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

J. Building Height

K. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the roof deck of a flat or mansard roof or the mean height of the hip, gambrel, arched, round or pitched roof.

L. Buildings Principal

A building in which the principal use of the lot on which it is located is conducted.

- L. **Business**  
An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- M. **Channel**  
Those floodlands normally occupied by a stream, lake, bed, or other body of water under average annual high-water flow conditions while confined within generally well-established banks.
- N. **Clothing Repair Shops**  
Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops.
- O. **Clothing Stores**  
Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and sewing shops.
- P. **Conditional Uses**  
Uses of a special nature as to make impractical their predetermination as a principal use in a district.
- Q. **Development**  
Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- R. **Direction Signs**  
Signs that direct and guide traffic and parking, bearing no advertising, and conforming to any applicable laws, rules or ordinances for traffic control signs or devices, not exceeding 6 square feet.
- S. **District Basic**  
A part of parts of the Village for which the regulations of this Ordinance governing the use and location of land and buildings are uniform (such as the Residential and Commercial District classifications).
- T. **District, Overlay**  
Overlay Districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- U. **Drive-in-Restaurant**  
An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises
- V. **Dryland Access**  
A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.
- W. **Dwelling**  
A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

X. **Dwelling Unit**

A group of rooms constituting all or part of a dwelling, which are arranged, designed, used, or intended for use exclusively as living quarters for one (1) family.

Y. **Dwelling/Efficiency**

A dwelling unit consisting of one principal room with no separate sleeping rooms.

Z. **Dwellings Single-Family**

A detached building designed for or occupied exclusively by one (1) family.

AA. **Dwelling/Two-Family**

A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

BB. **Dwelling/Multiple-Family**

A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

CC. **Election Campaign Period**

In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day candidates would circulate papers were papers to be required, and ending the day of the election.

In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

DD. **Environmental Control Facility**

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 or thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment nor meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

EE. **Essential Services**

Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

FF. **Family**

The body of persons related by blood, marriage, or adoption; with not more than one (1) unrelated person per bedroom with a maximum of four (4) unrelated persons, who live together in one dwelling unit as a single housekeeping entity.

GG. **Flags**

Flags of nations, political subdivisions, and symbolic flags and insignia of institutions which are five (5) by eight (8) feet or smaller, with a maximum flagpole height of thirty (30) feet when displayed in connection

with a residential, office, commercial, or industrial land use or a private club. Such flags are prohibited from being used as attention-getting devices for commercial purposes. Government buildings are exempt from the size and height limitations.

HH. **Flood**

A general and temporary condition of partial or complete inundation of normally dry land areas caused by 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 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.

II. **Flood Insurance Study**

An examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations; or an examination, evaluation, and determination of mudslide or mud flow, and/or flood related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

JJ. **Flood Profile**

A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

KK. **Flood Protection Elevation**

A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such *unknown* factors may include ice jams, debris accumulation, wave action, and obstructions of bridge, openings.

LL. **Floodlands**

For the purpose of this Ordinance, the floodlands are all lands contained in the "regional floods or 100-year recurrence interval flood. For the purpose of zoning regulation, the flood lands are divided into the Floodway, and Floodplain Fringe Overlay District.

- MM. **Floodplain Fringe**  
Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood.
- NN. **Floodproofing**  
Any combination of structural and non-structural additions, changes or adjustments which reduce or eliminate flood damage to unimproved and improved real estate, water and sanitary facilities, and their contents. [See also Section 17.0910 of this Ordinance.]
- OO. **Floodway**  
A designated portion of the 100-year flood that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures, and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.
- PP. **Frontage**  
The dimension of a lot abutting a public street measured along the street line. The minimum frontage for lots is 40 feet as stated in Section 17.0205.
- QQ. **Gift Stores**  
Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- RR. **Hardware Stores**  
Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.
- SS. **Hotel**  
A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooling facilities in any individual room or apartment.
- TT. **Home Occupations**  
An occupation, professional activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit with only one (1) non-resident person employed and is in accordance with the restrictions of this ordinance. Home occupations shall be limited to an office, tutoring, making of arts or crafts or similar uses. Home occupations shall not include conducting of any retail or wholesale activity and shall comply with the Village Zoning Code.
- UU. **Housing For The Elderly**  
A dwelling intended for occupancy by persons 62 years of age or older, or by families, the head of which, or his spouse, is 62 years of age or older.
- VV. **Letter of Map Amendment (LOMA)**  
Official notification from the Federal Emergency Management Agency (FEMA), that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

**WW. Loading Area**

A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

**XX. Lodging House**

See "Boarding House".

**YY. Lot**

A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, and other open space provisions of this Ordinance.

**ZZ. Lot, Corner**

A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. (See Illustration No. 3.)

**AAA. Lot, Interior**

A lot situated on a single street which is bounded by adjacent lots along each of its other lines. (See Illustration No. 3)

**BBB. Lot, Through**

A lot which has a pair of opposite lot lines along two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines. (See Illustration No. 3)

**CCC. Lot, Substandard**

A parcel of land held in separate ownership having frontage on a public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

**DDD. Lot of Record**

A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Ordinance, is on record with the Ozaukee County Register of Deeds and which exists as described therein.

**EEE. Lot Width**

The width of a parcel of land measured at the setback line.

**FFF. Machine Shops**

Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.

**GGG. Minor Structures**

Any small, movable accessory erection or construction, such as birdhouses; tool houses; pet houses; play equipment; arbors; and walls and fences under four (4) feet in height.

**HHH. Motel**

A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than 50 percent of the lodging rooms are for rent to transient tourists for a continuous period of less than 30 days.

### **III. Navigable Water**

Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all rivers, 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. The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from adjacent uplands and with levels of 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 Gaynor and 96 Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]

For the purpose of this Ordinance, rivers and streams will be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps until such time that the Wisconsin Department of Natural Resources has made a determination that the waterway is not, in fact, navigable.

### **JJJ. Nonconforming Uses or Structures**

Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

### **KKK. Open Space**

An unoccupied space open to the sky on the same lot with the building it serves and not used for any other purpose. Required off-street parking space does not qualify as open space, nor do drives except with respect to single family residences.

### **LLL. Ordinary Highwater Mark**

The point on the bank or shore of a body of water 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.

### **MMM. Parking Lot**

A structure or premises containing 5 or more parking spaces open to the public for rent or a fee.

### **NNN. Parking Space or Parking Stall**

A graded and surfaced area either enclosed or open, but in fact usable, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

**OOO. Parties of Interest**

Includes all abutting property owners, all property owners within 100 feet, and all property owners of opposite frontages.

**PPP. Party Wall**

A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.

**QQQ. Professional Home Offices**

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, lawyers, professional engineers, registered land surveyors, real estate agents, insurance brokers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one-half (1/2) the area of only one floor of the residence and only two (2) nonresident persons are employed. The principal use of the structure must remain residential in nature.

**RRR. Public Building**

Public buildings are structures principally of an institutional nature and serving a public needs such as: churches, hospitals, schools, including private academic schools and nursing schools, libraries, museums, post offices, police and fire stations, public utilities and other public services, but not including the operation of a public bar, restaurant, or recreational facility as a commercial enterprise.

**SSS. Rear Yard**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure (See Illustration No 4)

**TTT. Regional Flood**

The regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year there is a one (1) percent chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26 percent chance of occurrence.

**UUU. Restaurant**

An establishment where food and drink is prepared, served and consumed primarily within the principal structure. (See "Restaurant, Drive-in")

**VVV. Restaurant, Drive-in**

A free-standing establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises. Contemporary drive-in restaurants often offer drive-through service. For the purpose of this Ordinance, an eating establishment located in a shopping center with three or more attached business/retail establishments; which does not provide drive through service; and which may serve food, refreshments, or beverages in or on disposable plates and cups is not considered to be a drive-in restaurant.

**WWW. Shorelands**

Those lands lying within the following distances 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, whichever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were non-navigable streams before ditching or had no previous stream history; and (c) such lands are maintained in non-structural agricultural use.

**XXX. Side Yard**

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. (See Illustration No. 4)

**YYY. Signs**

Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

**ZZZ. Sign. Awning**

A sign that is mounted or painted on, or attached to an awning, canopy, or marquee. (See Illustration No. 5)

**AAAA. Sign Bulletin**

A sign carrying advertising or information to the public.

**BBBB. Sign. Copy**

The message or advertisement, and any other symbols on the face of a sign. (See Illustration No. 5)

**CCCC. Sign. Double Faced**

A sign, which has two readable areas, placed back to back.

**DDDD. Sign. Face**

The area or display surface used for the message.

**EEEE. Sign. Flashing**

A sign which has lights that operate in a pulsating or intermittent manner.

**FFFF. Sign. Ground/Monument**

Any sign placed upon or supported by the ground independent of any other structure and the means of support are concealed. (See Illustration No. 5)

**GGGG. Sign, Illuminated**

A sign designed to give forth or reflect artificial light, from a light source incorporated in the sign or indirectly from another light source.

**HHHH. Sign, Off Premise**

A sign not intended to be temporary (see Sign, Temporary), and advertising a use not conducted on the parcel where the sign is located. Off premise signs are not permitted in any district.

**IIII. Sign, Permanent**

A sign not intended to be temporary. (See Sign, Temporary).

**JJJJ. Sign, Pole**

A freestanding sign with the bottom edge of its frame ten (10) feet or more above the surface of the ground.

**KKKK. Sign, Portable**

A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable. (See Illustration No. 5)

**LLLL. Sign, Poster**

A temporary paper sign, which is posted in a public place to advertise an event.

**MMMM. Sign, Projecting**

MMMMI. A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. (See Illustration No. 5)

**NNNN. Sign**

Any name, structure or device designated to inform or attract attention for the purpose of advertising, identifying or directing.

**OOOO. Sign, Roof**

A roof sign is any sign that meets one of the following descriptions:

- (A) A sign that is mounted on the roof of a building, with the exception of an integral roof sign.
- (B) A sign that is wholly dependent upon a building for support and which projects above the roof line of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

**PPPP. Sign, Roof (Integral)**

An integral roof sign is any sign erected or constructed as an integral or essentially integral part of the normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more the six (6) inches.

**QQQQ. Sign, Temporary**

Any sign, valance or advertising display other than banners, pennants and flags, constructed of cloth, canvas, light fabric or cardboard, wallboard or other materials, with or without frames, intended to be displayed for not more than thirty (30) days in a 365 day period.

**RRRR. Sign, Wall**

A sign that is mounted to a structure in such a manner that the wall becomes the supporting structure for, or forms the back ground surface of the sign and which does not project more than 12 inches from such building or structure.

**SSSS. Story**

That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

**TTTT. Story, Half**

A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

**UUUU. Street**

A public right-of-way not less than 50 feet wide providing primary access to abutting properties.

**VVVV. Street Line**

A dividing line between a lot, tract or parcel of land and a contiguous street.

**WWWW. Street Yard**

The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called the setback. (See illustration No. 4)

**XXXX. Structure**

Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground and being more than 6" above grade.

**YYYY. Structural Alterations**

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

**ZZZZ. Substantial Improvement**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (a) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe code living conditions, or (b) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

AAAAA. **Temporary Structure**

A movable structure not designed for human habitation or occupancy but for the temporary protection of goods or chattels during a period of construction, but not to exceed one year, for the enclosure or screening of goods or property; or for the display of signs and advertising.

BBBBB. **Town Center**

An open air, main street style shopping center that allows office, retail (B-1, B-2, B-3 & B-4) and residential uses (R-4 & R-5). It encourages pedestrian traffic. It is historically sensitive. The town center encompasses the area shown on page 3-4 of the Concept Plan created for the City of Mequon and the Village of Thiensville in September, 2002. The Laurel Lake area is not included in the town center area. The key elements are as described on page 3-1 of the same Plan.

CCCCC. **Unnecessary Hardship**

That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of the Ordinance. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

DDDDD. **Use**

The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

EEEEEE. **Use Accessory**

A subordinate use on the same lot which is incidental and customary in connection with the principal use.

FFFFF. **Use. Principal**

The main use of land or building as distinguished from a subordinate or accessory use.

GGGGG. **Use. Nonconforming**

Any use of a building or premises which the effective date of this Ordinance does not, even though lawfully establish, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.

HHHHH. **Utilities**

Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and microwave radio relays, and gas regulation stations, but not including sewage disposal plants, warehouses, shops, storage yards, and power plants.

IIII. **Variance**

An authorization granted by the Zoning Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this Ordinance. A variance may not permit the use of a property that is otherwise prohibited by the Ordinance or allow floodland construction that is not protected to the flood protection elevation.

**JJJJ. Vision Setback**

An unoccupied triangular space at the street corner of a corner lot.

**KKKKK. Wetland**

An area where water is at, near, or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

**LLLLL. Window Signs**

Any temporary window sign or combination of window signs, the area of which does not exceed 20 percent of the window area, including door windows if any, on which the sign or signs are located. However, permanent window signs shall require a special sign permit pursuant to this ordinance.

**MMMMM. Yard**

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot on an interior lot. (See Illustration No. 4)

**SECTION 17.1400 ADOPTION AND EFFECTIVE DATE**

**17.1401 PLAN COMMISSION RECOMMENDATION**

The Plan Commission of the Village of Thiensville recommended the adoption of this Ordinance at a meeting held on August 8, 2000.

**17.1402 PUBLIC HEARING**

The Village Board held public hearings on this proposed Ordinance on the September 18, 2000

**17.1403 VILLAGE BOARD APPROVAL**

The Village Board concurred with the recommendations of the Plan Commission and proceeded to adopt the Zoning Ordinance at a meeting on September 18, 2000.

**17.1404 EFFECTIVE DATE**

This Ordinance shall take effect upon passage and adoption by the Village Board and the filing of proof of posting or publication in the Office of the Village Clerk.

Date of Posting or Publication: October 1, 2000

**APPENDIX A  
SUMMARY OF AREA, YARD AND HEIGHT REQUIREMENTS**

District	Minimum Lot Area			Minimum Building Area (sq. ft.)	Minimum Setback (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Height (feet)
	Total Area (sq. ft.)	Area Per Family (sq. ft.)	Lot Width At Building Line (feet)					
R-1 Single Family Residence District	13,500	13,500	95	1,200	40	10	25	35
R-2 Single Family Residence District	6,800	6,800	60	1,000	25	5	25	35
R-3 Two-Family Residence District	15,000	7,500	100	1,000	40	10	25	35
R-4 Multiple-Family Residence District (up to 8 units per structure)	15,000	3,800	100	Efficiency and one-bedroom 525 two-bedroom or larger 675***	40	15	25	35
R-5 Multiple-Family Residence District (up to 12 units per structure)	15,000	3,800	100	Efficiency and One-bedroom 525 two-bedroom or larger 675***	25	15	25	40
B-1 Central Business District	7,200	—	60	—	Discretion Of Plan Commission	0	25	45
B-2 Shopping Center Business District	174,200 (4 acres)	—	200	—	5	15	25	35
B-3 Office and Professional Business District	15,000	—	100	—	5	15	25	45
B-4 Highway Business District	15,000	—	100	—	5	20	25	35
I-1 Institutional District	15,000	15,000	100	1,200	40	15	25	35
P-1 Park District	—	—	—	—	40	40	40	35
FW Floodway District	<b>See Section 17.0315</b>							
FFO Floodplain Fringe Overlay District	<b>See Section 17.0316</b>							
PDO Planned Development District	<b>See Section 17.0317</b>							
SWO Shoreland Wetland Overlay District	<b>See Section 17.0318</b>							

\*\*\*In the Town Center Area, one bedroom dwelling units not less than 900SF, two bedroom units not less than 1,200SF.