

SUBCHAPTER 9: PROCEDURES AND ADMINISTRATION

SUBCHAPTER 9: PROCEDURES AND ADMINISTRATION**22.900 GENERAL APPLICATION OF THIS SUBCHAPTER**

- (1) **PURPOSE:** The purpose of this Subchapter is to establish the procedural requirements for zoning text amendments, zoning map amendments, conditional use review and approval, temporary use review and approval, sign permits, site plan review and approval, certificates of occupancy, variances, zoning provision interpretations by the Zoning Administrator, and appeals of zoning provision interpretations to the Zoning Board of Appeals.
- (2) **PERMITS REQUIRED:** After the effective date of this Ordinance, a zoning permit shall be obtained from the Town before any building or structure is located, relocated, built, erected, enlarged, moved, reconstructed, altered, or extended, or before the use of any building, structure or property is commenced, changed or altered. Permits for uses authorized as a permitted use shall be issued pursuant to the procedures of §22.904 below. Permits for uses authorized only by conditional use shall be issued pursuant to the procedures of §22.905 below. Permits for temporary uses shall be issued pursuant to the procedures of §22.906 below. Permits for signs shall be issued pursuant to the procedures of §22.907 below. All other zoning permits shall be issued pursuant to the following procedures.

22.901 AMENDMENTS TO THE TEXT OF THESE ZONING REGULATIONS

- (1) **PURPOSE:** Subject to the requirements of §62.23(7)(d) Wis. Stats., the purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to the text of this Chapter, except amendments to the Official Zoning Map.
- (2) **WHO MAY INITIATE A REQUEST FOR AMENDMENT OF THIS CHAPTER:** Proceedings to amend this Chapter may be initiated by any of the following methods:
 - (a) By an application by any resident or landowner in the Town;
 - (b) By a recommendation of the Plan Commission; or
 - (c) By action of the Town Board.
- (3) **APPLICATION REQUIREMENTS:** All applications from the general public for proposed amendments to this Ordinance shall be submitted to the Zoning Administrator or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant.
 - (b) **Current Text:** A copy of the portion of the current provisions of this Ordinance which are proposed to be amended, with said provisions clearly indicated in a manner which is clearly reproducible with a photocopier.
 - (c) **Proposed Text:** A copy of the text which is proposed to replace the current text.
 - (d) **Explanation:** Written justification for the proposed text amendment, consisting of the reasons why the Applicant believes the proposed text amendment is in harmony with the Comprehensive Master Plan, particularly as evidenced by compliance with the standards set out in §22.901(5)(e) below.

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(4) REVIEW BY ZONING ADMINISTRATOR:

- (a)** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall so notify Applicant and forward the application to the Plan Commission for further action.
- (b)** The Zoning Administrator shall review and evaluate the application and shall comment in writing to the Plan Commission on the proposed text amendment provided in the application, taking into consideration the review standards of §22.901(5)(e) below. The Zoning Administrator's written comments shall be submitted to the Plan Commission on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
- (c)** The Zoning Administrator shall not refer the application to the Plan Commission and no one shall place the application on the Plan Commission agenda until the Zoning Administrator, or designee, has certified that the application is complete. However, an item may be placed on an agenda as a "discussion-only" item, with the permission of the Chairman of the Plan Commission, even though a completed application has not yet been submitted.

(5) REVIEW AND RECOMMENDATION BY THE PLAN COMMISSION:

- (a) Submission to Plan Commission Required:** Pursuant to §62.23(7)(d) Wis. Stats., no amendment shall be made to this Chapter without first allowing for a recommendation from the Plan Commission.
- (b) Public Hearing:** Unless the Town Board specifically provides otherwise, public hearings on proposed amendments shall be held by the Plan Commission. The Plan Commission shall schedule a reasonable time and place for a public hearing, within 45 days after the Administrator determines that the application is complete. The Applicant may appear in person, by agent, and/or by attorney.
- (c) Notice:** Notice of the proposed amendment and the public hearing shall conform to the requirements of §62.23(7)(d) Wis. Stats. Said notice shall contain a description of the proposed text change. In addition, at least ten(10) days before said public hearing, the Clerk shall mail an identical notice to the Applicant, and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Ordinance. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
- (d) Formal Decision:** Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission (i) shall make a written report to the Town Board and/or (ii) shall state in the formal minutes of its meeting, its findings and its recommendations regarding the application. Said report and/or minutes shall include formal findings of facts developed and approved by the Plan Commission concerning the standards of subsection (e) below.

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- (e) **Standards of Review:** The following issues shall be considered by the Plan Commission in making its decision:
1. Whether the proposed text amendment is in harmony with the recommendations of the Comprehensive Master Plan, with specific reference wherever applicable to the text of the Comprehensive Plan, and/or whether the Comprehensive Plan needs to be amended either (i) to change the recommendations of the Plan or (ii) to promulgate a recommendation which was omitted from the Plan.
 2. Whether the proposed text amendment furthers the purposes of this Chapter as outlined in Section 22.103.
 3. Whether the proposed text amendment furthers the purposes of the general Subchapter in which the amendment is proposed to be located.
 4. Whether the proposed text amendment furthers the purposes of the specific Section in which the amendment is proposed to be located.
 5. Whether any new, different or unusual factors have arisen that are not properly addressed in the current zoning text. The following are examples of such factors:
 - a. The provisions of this Chapter should be brought into conformity with the Comprehensive Plan. (If this is a factor related to the proposed amendment, note pertinent portions of the Comprehensive Plan.);
 - b. A change has occurred in the land market, or other factors have arisen which require a new form of development, a new type of land use, or a new procedure to meet said change(s);
 - c. New methods of creating development or providing infrastructure make it necessary to alter this Ordinance to meet these new factors;
 - d. Changing governmental finances require amending this Chapter in order to meet the needs of the government in terms of providing affordable public services.
 6. Whether the proposed amendment maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
 7. Whether the potential public benefits of the proposed amendment outweigh any and all potential adverse impacts of the proposed amendment.
- (f) **Failure to Act:** If the Plan Commission fails to act as required above, then the Town Board may hold a public hearing, pursuant to the requirements of subsection (c) above, and then make a decision as required below.
- (6) **REVIEW AND ACTION BY THE TOWN BOARD:** The Town Board shall consider the Plan Commission=s recommendation regarding the proposed text amendment. The Board may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Board may conduct one or more meetings on the application before taking final action. The Board may approve the amendment as originally proposed, may approve the proposed amendment with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the proposed amendment. If the Board wishes to make significant changes in the proposed text amendment, as recommended by the Plan Commission, then the procedure set forth in subsection (5) above shall again be followed prior to Board action. The Board=s approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.

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- (7) **EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Administrator, or designee, first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (8) **FEE:**
- (a) All applicants shall pay an application fee when requesting an amendment to the text, and such fee shall be established by resolution of the Town Board. See, §22.937.
 - (b) Application fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
 - (c) A double application fee shall be charged by the Town if an application is submitted after the Applicant has committed an act or omission for which the Applicant now seeks an amendment. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
 - (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
 - (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered Acomplete and ready for consideration until all fees have been paid.

22.902 AMENDMENTS TO THE OFFICIAL ZONING MAPS

- (1) **PURPOSE:** Subject to the requirements of §62.23(7)(d) Wis. Stats., the purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to the Official Zoning Maps.
- (2) **WHO MAY INITIATE A REQUEST FOR AMENDMENT OF THE ZONING MAPS:** Proceedings to amend the Official Zoning Maps may be initiated by any of the following:
- (a) By an application by any resident or landowner in the Town;
 - (b) By a recommendation of the Plan Commission; or
 - (c) By action of the Town Board.
- (3) **APPLICATION REQUIREMENTS:** All applications from the general public for proposed amendments to the Map shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
- (a) **Applicant Info:** Name and address of the applicant, and the owner of the site, and the address and tax parcel number for the site.

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- (b) **Site Map:** A map of the subject property showing all lands for which the zoning is proposed to be amended, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as they appear on the current tax records of the Town. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is not larger than 11" by 17," which is clearly reproducible with a photocopier, and which is at a scale that is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 - (c) **Overall Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the Town as a whole.
 - (d) **Explanation:** Written justification for the proposed map amendment, consisting of the reasons why the Applicant believes the proposed map amendment is in harmony with recommendations of the Master Plan, particularly as evidenced by compliance with the standards set out in §22.902(5)(e) below.
- (4) **REVIEW BY ZONING ADMINISTRATOR:**
- (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall so notify Applicant and forward the application to the Plan Commission for further action.
 - (b) The Zoning Administrator shall review and evaluate the application and shall comment in writing to the Plan Commission on the proposed text amendment provided in the application, taking into consideration the review standards of §22.902(5)(e) below. The Zoning Administrator=s written comments shall be submitted to the Plan Commission on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
 - (c) The Zoning Administrator shall not refer the application to the Plan Commission and no one shall place the application on the Plan Commission agenda until the Zoning Administrator, or designee, has certified that the application is complete. However, an item may be placed on an agenda as a discussion-only item, with the permission of the Chairman of the Plan Commission, even though a completed application has not yet been submitted.
- (5) **REVIEW AND RECOMMENDATION BY THE PLAN COMMISSION:**
- (a) **Submission To Plan Commission Required:** Pursuant to §62.23(7)(d) Wis. Stats., no amendment shall be made to the Official Zoning Map without first allowing for a recommendation from the Plan Commission.
 - (b) **Hearing:** Unless the Town Board specifically provides otherwise, public hearings on proposed amendments shall be held by the Plan Commission. The Plan Commission shall schedule a reasonable time and place for a public hearing, within 45 days after the Administrator determines that the application is complete. The Applicant may appear in person, by agent, and/or by attorney.
 - (c) **Notice:** Notice of the proposed amendment and the public hearing shall conform to the requirements of §62.23(7)(d) of the Wis. Stats. Said notice shall contain a description of the subject property and the proposed change in zoning. In addition, at

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least ten days before said public hearing, the Clerk shall mail an identical notice to the Applicant; to all property owners within 200 feet of the boundaries of the subject property as identified in §22.902(3)(b), above; and to the Clerk of any municipality whose boundaries are within 1,000 feet of the subject property. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

- (d) **Formal Decision:** Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission (i) shall make a written report to the Town Board and/or (ii) shall state in the formal minutes of its meeting, its findings and its recommendations regarding the application. Said report and/or minutes shall include formal findings of facts developed and approved by the Plan Commission concerning the standards of subsection (e) below.
- (e) **Standards of Review:** The following issues shall be considered by the Plan Commission in making its decision:
1. Whether the proposed map amendment is in harmony with the recommendations of the Comprehensive Master Plan, with specific reference wherever applicable to the text of the Comprehensive Plan, and/or whether the Comprehensive Plan needs to be amended either (i) to change the recommendations of the Plan or (ii) to promulgate a recommendation which was omitted from the Plan.
 2. Whether the proposed map amendment furthers the purposes of this Chapter as outlined in Section 22.103 and the applicable rules and regulations of the DNR and FEMA.
 3. Whether any new, different or unusual factors have arisen that are not properly addressed on the current zoning maps. The following are examples of such factors:
 - a. The designation of the Map should be brought into conformity with the Comprehensive Plan;
 - b. A change has occurred in the land market, or other factors have arisen which require a new form of development or a new type of land use;
 - c. A mistake was made in mapping on the Official Zoning Map. (e.g. an area is developing in a manner and purpose different from that for which it is mapped.) NOTE: If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the Town may intend to stop an undesirable land use pattern from spreading;
 - d. Factors have changed (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes) making the subject property more appropriate for a different zoning district;
 - e. Growth patterns or rates have changed, thereby creating the need for an Amendment to the Official Zoning Map.
 4. Whether the proposed amendment to the Official Zoning Map maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. Whether the potential public benefits of the proposed amendment outweigh any and all potential adverse impacts of the proposed amendment.
- (f) **Failure To Act:** If the Plan Commission fails to act as required above, then the Town Board may hold a public hearing, pursuant to the requirements of subsection (c) above, and then make a decision as required below.
- (6) **REVIEW AND ACTION BY THE TOWN BOARD:** The Town Board shall consider the Plan Commission's recommendation regarding the proposed amendment to the Official Zoning

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Map. The Board may request further information and/or additional reports from the Plan Commission, the Zoning Administrator, and/or the Applicant. The Board may conduct one or more meetings on the application before taking final action. The Town Board may approve the amendment as originally proposed, may approve the proposed amendment with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members) or may deny approval of the proposed amendment. If the Town Board wishes to make significant changes in the proposed text amendment, as recommended by the Plan Commission, then the procedure set forth in subsection (5) above shall again be followed prior to Town action. The Town Board's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.

- (7) **EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Administrator first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (8) **FEE:**
- (a) All applicants shall pay an application fee when requesting an amendment to the Maps, and such fee shall be established by resolution of the Town Board. See, §22.937.
 - (b) Application fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
 - (c) A double application fee shall be charged by the Town if an application is submitted after the Applicant has committed an act or omission for which the Applicant now seeks an amendment. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
 - (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
 - (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.903 ZONING PERMITS FOR PERMITTED USES

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of requests for zoning permits for permitted uses.
- (2) **GENERAL REQUIREMENT:** After the effective date of this Ordinance, a zoning permit shall be obtain from the Town before any building or structure is located, relocated, built, erected, enlarged, moved, reconstructed, altered, or extended, or before the use of any building, structure or property is commenced, changed or altered. Permits for uses authorized as a permitted use shall be issued pursuant to the procedures below. Permits for uses authorized only by conditional use shall be issued pursuant to the procedures of §22.904 below. Permits for temporary uses shall be issued pursuant to the procedures of §22.905 below. Permits for signs shall be issued pursuant to the procedures of §22.906 below. All other zoning permits shall be issued pursuant to the following procedures.

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- (3) **APPLICATION REQUIREMENTS:** All applications for permits shall be submitted to the Zoning Administrator or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
- (a) **Applicant Info:** Name and address of the applicant, the owner of the site, and the architect(s), professional engineer(s), developer(s) and contractor(s) being used on the project.
 - (b) **Property Info:** Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; tax parcel number for the 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) **Survey:** Plat of survey, and a reduced map not larger than 11" by 17," prepared by a land surveyor registered in Wisconsin (or at the Town's discretion, a scaled drawing) showing the location, boundaries, dimensions, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements; streets and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; high water, channel floodway, floodplain shoreland, and wetland boundaries; and existing and proposed street, side, and rear yards.
 - (d) **Other:** Additional information as may be required by the Zoning Administrator.
- (4) **REVIEW BY ZONING ADMINISTRATOR:** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, or if he determines that additional information is needed to determine compliance with this Chapter, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall review the application and shall render a written decision.
- (5) **DECISION:** A zoning permit shall be granted or denied, in writing, by the Zoning Administrator within thirty (30) days of either (i) the filing of a complete application or (ii) the filing of additional information requested by the Zoning Administrator, whichever is later. In making a decision, the Zoning Administrator may seek input from other City Staff, consultants, and/or the Plan Commission before rendering a decision. If a decision is not rendered by the Zoning Administrator within said 30-day period, the application shall be deemed to have been denied, and the Applicant may either re-apply or appeal the denial to the Board of Appeals. (See, §22.911).
- (6) **POSTING:** The applicant shall post such permit in a conspicuous place at the site while performing any work under the permit.
- (7) **EXPIRATION:** The permit shall expire within four (4) months after issuance unless work equal to 10% of the dollar amount of the project has been completed, and the permit shall expire within eighteen (18) months after issuance if the structure for which a permit issued is not 75% completed as measured by the dollar amount of the project. Once a permit has expired, the applicant shall reapply for a zoning permit before recommencing work on the structure. Any permit issued in conflict with the provisions of the Chapter shall be null and void.
- (8) **TERMINATION OF AN ISSUED PERMIT AND/OR AN APPROVED PERMIT:** Any applicant and/or land owner found not to be in compliance with the terms of this Ordinance

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shall be considered in violation of this Ordinance, and shall be subject to all applicable procedures and penalties. A zoning permit may be revoked for such a violation by majority vote of the Plan Commission, following notice to the land owner and following a hearing before the Plan Commission. Furthermore, at any time after approval of a zoning permit, upon request by the Plan Commission, the Applicant must appear before the Plan Commission at a time and date set by the Commission, and the Applicant must demonstrate to the satisfaction of the Plan Commission that the Applicant has met all general and specific requirements of the zoning permit and this Chapter for the subject property.

- (9) **EFFECT ON OTHER PERMITS:** Once a zoning permit is granted, no other permits (e.g. Erosion Control Permit, Site Plan approval, Certificate of Occupancy, Driveway permit, sewer/water hook-up permit, Building Permit, etc.) shall be issued for any development which do not comply with all requirements of the granted zoning permit and this Ordinance.
- (10) **FEES:**
- (a) All applicants shall pay a zoning permit fee which shall be established by resolution of the Town Board. (See, §22.937).
 - (b) Zoning permit fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
 - (c) A double fee shall 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 Chapter nor from prosecution for violation of this Chapter.
 - (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
 - (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.904 ZONING PERMITS FOR CONDITIONAL USES

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses, including limited conditional uses.
- (2) **PERMIT REQUIRED:** Permits for uses allowed only by conditional use shall be issued pursuant to the following procedures.
- (3) **LIMITED CONDITIONAL USES:** Limited conditional uses are the same as regular conditional uses except that limited conditional uses are not permanent, but instead, they are limited in time or duration because of
- (a) their particularly specialized nature, or
 - (b) their particular location within a district, or
 - (c) the peculiar unique relationships or needed compatibility of uses to involved individuals, or
 - (d) any other reason(s) the Plan Commission deems specially relevant and material to limit the scope thereof.
- (4) **INITIATION OF REQUEST FOR APPROVAL OF A CONDITIONAL USE:**

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- (a) **Who May Apply:** Proceedings for approval of a site plan shall be initiated by application of the owner(s) of the subject property, or their legally authorized representative(s).
 - (b) **Pre-Application Meeting:** Before submitting an application, the Applicant may first meet with Staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the Applicant on technical requirements and procedures, and a timetable for project review may be discussed.
- (5) **APPLICATION REQUIREMENTS:** All applications for proposed conditional uses shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s), developer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Site Map:** A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the tax records. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 - (c) **Overview Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the Town as a whole.
 - (d) **Description of Proposed Uses:** A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.
 - (e) **Site Plan:** A site plan of the subject property as proposed for development. Said site plan shall conform to the requirements of §22.907(3). If the proposed conditional use is a group development (per §22.414), a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per §22.907(3).
 - (f) **Explanation:** Written justification for the proposed conditional use consisting of the reasons why the Applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in §22.904(7)(e) below.
- (6) **REVIEW BY ZONING ADMINISTRATOR:** The proposed conditional use application shall be reviewed by the Zoning Administrator, or designee, as follows:
 - (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (5) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (5) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (5), he shall so notify Applicant and forward the application for further action.

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- (b) If the applicant is complete, the Zoning Administrator shall review and evaluate the application and shall comment in writing to the Plan Commission on the proposed application, taking into consideration the review standards of §22.904(7)(e) below. The Zoning Administrator's written comments shall be submitted to the Plan Commission on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
- (c) The Zoning Administrator shall not refer the application to the Plan Commission and no one shall place the application on the Plan Commission agenda until the application is complete. However, an item may be placed on the agenda as a discussion-only item, with the permission of the Chairman of the Plan Commission, even though a completed application has not yet been submitted.

(7) REVIEW AND ACTION BY THE PLAN COMMISSION:

- (a) **Referral to Plan Commission:** Once the application is referred to the Plan Commission, the Commission may request further information and/or additional reports from the Zoning Administrator, the Applicant, and/or from any other source. The Plan Commission shall take final action on the application pursuant to the following procedure.
- (b) **Public Hearing:** The Plan Commission shall schedule a reasonable time and place for a public hearing, within 45 days after the Administrator determines that the application is complete. The Applicant may appear in person, by agent, and/or by attorney.
- (c) **Notice:** Notice of an application for a conditional use and the public hearing thereon shall be given as follows. A Class 1 notice, under Ch. 985 Wis. Stats., shall be published containing (i) a description of the subject property, (ii) a description of the proposed use(s), (iii) the identity of the owner of the subject property, (iv) the identity of the applicant and any intended future owner (if different from the current owner and applicant), and (v) the date and location of the public hearing. In addition, at least ten (10) days before said public hearing, the Clerk shall mail an identical notice to the Applicant and to all property owners within 200 feet of the boundary of the subject property as identified in §22.904(5)(b) above. Failure to mail said notice or failure to meet the time requirements herein, provided it is unintentional and provided substantial compliance has occurred, shall not invalidate proceedings under this Section.
- (d) **Formal Decision:** Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission shall issue a decision either (i) in the form of a written resolution, and/or (ii) in the formal minutes of its meeting. Its decision shall include formal findings of fact concerning the standards of subsection (e) below. In making its decision the Plan Commission,
 1. may approve the conditional use as originally proposed, or
 2. may approve the proposed conditional use with such modifications and conditions as it deems necessary and appropriate after consideration of the standards of review set forth below and consideration of the recommendations of the Zoning Administrator, outside experts, its own members, and any other source, or
 3. may deny approval of the proposed conditional use.The Plan Commission's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.

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- (e) **Standard of Review:** The following issues shall be considered and addressed by the Plan Commission in making its decision:
1. Whether the proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration by the Town.
 2. Whether the proposed conditional use (in its proposed specific location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration by the Town.
 3. Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, will cause a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the Town or other governmental agency having jurisdiction to guide development.
 4. Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
 6. Whether the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use (as identified in Subsections 1. through 5., above), after taking into consideration the Applicant=s proposal, including the Applicant=s suggestions to ameliorate any adverse impacts.
- (8) **EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Zoning Administrator first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (9) **EFFECT OF APPROVAL:** Except for conditional use approvals for temporary uses, a copy of the authorizing resolution, containing a legal description of the property subject to the conditional use and containing any specific requirements of approval, shall be recorded by the Town with the Register of Deeds office. Also, the Zoning Administrator shall issue a Zoning Permit, with a copy of the authorizing resolution attached, to the Applicant.
- (10) **EFFECT ON OTHER PERMITS:** Once a conditional use is granted, no other permits (e.g. Erosion Control Permit, Site Plan approval, Certificate of Occupancy, Driveway permit, sewer/water hook-up permit, Building Permit, etc.) shall be issued for any development which do not comply with all requirements of the granted conditional use and this Ordinance.
- (11) **TIME LIMITS ON THE DEVELOPMENT OF CONDITIONAL USE:** The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by the Plan Commission and shall be operational within 730 days of said approval, unless a different deadline is established by the terms of the Conditional Use. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, **operational** shall be defined as the granting of a Certificate of

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Occupancy for the conditional use. Prior to such a revocation, the Applicant may request an extension of this period. Said request shall require formal approval by the Plan Commission and shall be based upon a showing of acceptable justification (as determined by the Plan Commission).

- (12) **DISCONTINUING AN APPROVED CONDITIONAL USE:** Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.
- (13) **CHANGE OF OWNERSHIP:** All requirements of an approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any approved conditional use, without approval by the Plan Commission, shall be considered a violation of this Chapter and shall be grounds for revocation of said conditional use approval.
- (14) **TERMINATION OF AN APPROVED CONDITIONAL USE:** Any conditional use found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Ordinance and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the Plan Commission, following the procedures outlined in §22.904(4) through (8) above. Furthermore, at any time after approval of a conditional use, upon request by the Plan Commission, the Applicant must appear before the Plan Commission at a time and date set by the Commission and the Applicant must demonstrate to the satisfaction of the Plan Commission that the Applicant has met all general and specific conditional use requirements for the subject property.
- (15) **NOTICE TO THE DNR:** The Plan Commission shall transmit a copy of each application for a conditional use in the Shoreland-Wetland, Floodway, Floodplain Conservancy, or Floodway Fringe Overlay Zoning Districts to Juneau County and the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to any public hearings. Final action on the application shall not be taken for 30 days or until Juneau County and the DNR has made their recommendations, whichever comes first. A copy of the decision shall be transmitted to Juneau County and the DNR within ten (10) days of the date of such decision.
- (16) **USES NOW REGULATED AS CONDITIONAL USES WHICH WERE APPROVED AS LEGAL LAND USES (permitted by right or as conditional uses) PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER:** A use now regulated as a conditional use which was approved as a legal land use either permitted by right or as a conditional use prior to the Effective Date of this Chapter shall be considered as a legal, conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require submission of a new application for a conditional use pursuant to the foregoing procedures.
- (17) **MINOR CHANGES:** Prior to the issuance of a Certificate of Occupancy, the Zoning Administrator, with the consent of the Chairman of the Plan Commission, is authorized to approve minor variations and minor changes to any previously-granted Conditional Use, without compliance with the notice and public hearing procedures of subsection (7) above, provided (i) the variations do not violate any of the minimum standards of this Ordinance and (ii) the spirit and intent of the original Conditional Use is preserved. All such variations shall be approved in writing and, whenever the variation changes any term or condition of a written resolution previously recorded with the Register of Deeds, the variation shall also be recorded.

Rationale: The intent of this section is to avoid the expensive and time-consuming process of a public hearing and public notice whenever a minor change is needed on a site plan or a conditional use. During construction, problems often arise which require minor changes to

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site plans or conditional uses. It is expensive, time-consuming, unnecessary and wasteful for the Applicant and the Plan Commission to go through the whole Conditional Use process just to approve a minor change.

(18) FEES:

- (a)** All applicants shall pay a non-refundable conditional use application fee which shall be established by resolution of the Town Board. See, §22.937.
- (b)** Conditional use application fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
- (c)** A double fee shall 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 Chapter nor from prosecution for violation of this Chapter.
- (d)** All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
- (e)** The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.905 ZONING PERMITS FOR TEMPORARY USES**(1) PURPOSE:**

- (a)** The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed temporary uses.
- (b)** Temporary uses are those uses that have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Chapter. In addition to such potential, temporary uses also have the potential to create undesirable impacts on nearby properties that potentially cannot be determined except on a case by case basis. In order to prevent this from occurring, all temporary uses are required to meet certain procedural requirements applicable only to temporary uses, in addition to the general requirements of this Chapter and the requirements of the zoning district in which the subject property is located.
- (c)** Land uses which fail to meet one of the requirements for temporary uses of §22.413 may be reviewed as a conditional use.

- (2) PERMIT REQUIRED:** After the effective date of this Ordinance, a Temporary Use permit shall be obtain from the Town before any temporary use is located, relocated, built, erected, enlarged, moved, reconstructed, altered, or commenced. No public hearing is required to develop a temporary use, however, a demonstration that the applicant proposes to meet all temporary use requirements of this Subchapter must be made at the time of application. Furthermore, no Certificate of Occupancy shall be issued for any development that does not comply with all requirements of this Chapter (See, §22.908). Any temporary use found not to be in compliance with the terms of this Chapter shall be considered in violation of this Code and shall be subject to all applicable procedures and penalties.

- (3) APPLICATION REQUIREMENTS:** All applications for proposed temporary uses shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:

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- (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Site Map:** A map of the subject property showing all lands for which the temporary use is proposed, and all other lands within 200 feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 - (c) **Overview Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the Town as a whole.
 - (d) **Description:** A written description of the proposed temporary use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.
 - (e) **Site Plan:** The Zoning Administrator may require a full or partial site plan of the subject property. If required, said site plan shall conform to any and all the requirements of §22.907 as determined by the Zoning Administrator.
- (4) **REVIEW BY ZONING ADMINISTRATOR:** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, or if he determines that additional information is needed to determine compliance with this Chapter, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall review the application and shall render a written decision.
- (5) **DECISION:** A temporary use permit shall be granted or denied, in writing, by the Zoning Administrator within thirty (30) days of either (i) the filing of a complete application or (ii) the filing of additional information requested by the Zoning Administrator, whichever is later. In making a decision, the Zoning Administrator may seek input from other Staff, consultants, and/or the Plan Commission before rendering a decision. If a decision is not rendered by the Zoning Administrator within said 30-day period, the application shall be deemed to have been denied, and the Applicant may either re-apply or appeal the denial to the Board of Appeals. (See, Section 22.911).
- (6) **POSTING:** The applicant shall post such permit in a conspicuous place at the site while performing any work under the permit.
- (7) **EXPIRATION:** The temporary use permit shall expire within four (4) months after issuance unless work equal to 10% of the dollar amount of the project has been completed, and the permit shall expire within six (6) months after issuance if the use for which a permit issued is not 75% completed as measured by the dollar amount of the project. Before expiration of the permit, the applicant may apply for and receive one (1) extension for a period not to exceed six (6) months. Any temporary use lasting more than six (6) months (twelve (12) months if extended) must immediately cease, and seek a permanent zoning permit.
- (8) **TERMINATION OF AN APPROVED PERMIT:** Any temporary use permit found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Ordinance and shall be subject to all applicable procedures and penalties. A zoning permit may be revoked for such a violation by the Zoning Administrator, following notice to the land owner.

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Furthermore, at any time after approval of a temporary use permit, upon request by the Zoning Administrator or the Plan Commission, the Applicant must appear before the Zoning Administrator or Plan Commission at a time and date set by the Administrator or Commission, and the Applicant must demonstrate to the satisfaction of the Administrator or Plan Commission that the Applicant has met all general and specific requirements of the permit and this Chapter for the subject property.

- (9) **EFFECT ON OTHER PERMITS:** Once a temporary use permit is granted, no other permit (e.g. Erosion Control Permit, Site Plan approval, Certificate of Occupancy, Driveway permit, sewer/water hook-up permit, Building Permit, etc.) shall be issued for any development which is inconsistent with the granted temporary use permit and this Ordinance.
- (10) **FEE:**
- (a) All applicants shall pay a permit fee which shall be established by resolution of the Town Board.
 - (b) Temporary use permit fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
 - (c) A double fee shall be charged by the Zoning Administrator if the temporary use is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
 - (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
 - (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered ~~Acomplete~~ and ready for consideration until all fees have been paid.

22.906 SIGN PERMITS

- (1) **PURPOSE:** The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of a permit for the erection, alteration or relocation of signs.
- (2) **PERMIT REQUIRED:** Unless specifically exempted by Subchapter 8, no sign shall be erected, altered, or relocated after the effective date of this Ordinance until a sign permit has been issued therefore by the Town.
- (3) **APPLICATION REQUIREMENTS:** All applications for sign permits shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. The applicant may include all signs on one premise under one application and one permit. A complete application shall contain all of the following:
- (a) The name and address of the applicant, and the owner of the lot upon which the sign will be located, if different from the applicant.
 - (b) The name and address of the proposed sign owner, if different from the applicant.
 - (c) The name and address of the architect(s), professional engineer(s) and contractor(s) being used on the project.

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- (d) A legible, colored, scaled drawing of each proposed sign, listing the height, width, total square footage, method of attachment, and method of illumination of each proposed sign, and also listing the materials to be used in making, erecting and attaching the sign.
 - (e) A legible, scaled drawing of the subject lot showing
 1. the location of each proposed sign's proposed location on the building and lot,
 2. the location of each existing sign=s current location on the building and lot,
 3. the location of all Overlay Zoning District Boundaries (as per Subchapter 3) on the lot,
 4. the location of all rights-of-way, easements, driveways, parking areas and drainage facilities on the lot
 - (f) The subject property=s Standard Zoning District designation (as per Subchapter 2).
 - (g) The A sign purpose@ of each proposed sign (as per §22.804(3)).
 - (h) The A sign type@ of each proposed sign (as per §22.804(4)).
 - (i) The total area of all signs on the subject property, both before and after the installation of the proposed sign. (See, Appendix, Sign Inventory Worksheet).
 - (j) Written proof of consent from the property owner upon which the sign(s) are to be erected and maintained. (Not required if the applicant is the property owner).
 - (k) Proof of payment of the appropriate sign permit fee, when required.
 - (l) Any other item of information that may be reasonably required by the Zoning Administrator or Plan Commission for the purpose of application evaluation, including (but not limited to)a site plan for the subject property (per §22.907).
- (4) **REVIEW BY ZONING ADMINISTRATOR:** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of § (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, or if he determines that additional information is needed to determine compliance with this Chapter, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall review the application and shall render a written decision.
- (5) **BASIS FOR GRANTING:** In reviewing a sign permit application, the Zoning Administrator shall consider the following factors in deciding whether or not to grant the issuance of a sign permit.
- (a) Whether the sign is compatible with the surroundings, pursuant to the objectives of proper design and zoning criteria.
 - (b) Whether the sign is designed, installed, and maintained to meet the sign users= needs while at the same time promoting the surrounding environment desired by the general public.
 - (c) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.

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- (d) Whether the sign is legible, readable, and visible in the circumstances in which it is to be used.
 - (e) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
 - (f) Whether the sign is in compliance with the provisions of this Subchapter.
 - (g) Whether the sign is in compliance with the provisions of the Town=s Ordinances relating to traffic safety, traffic visibility setbacks, and other provisions of this Zoning Ordinance.
- (6) **DECISION:** A Sign permit shall be granted or denied, in writing, by the Zoning Administrator within thirty (30) days of either (i) the filing of a complete application or (ii) the filing of additional information requested by the Zoning Administrator, whichever is later. In making a decision, the Zoning Administrator may seek input from other City Staff, consultants, and/or the Plan Commission before rendering a decision. If a decision is not rendered by the Zoning Administrator within said 30-day period, the application shall be deemed to have been denied, and the Applicant may either re-apply or appeal the denial to the Board of Appeals. (See, §22.911).
- (7) **POSTING:** The applicant shall post such permit in a conspicuous place at the site while performing any work under the permit.
- (8) **ILLEGAL SIGNS AND VOID PERMITS:** Any sign found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
- (9) **REVOCAION OF PERMIT:**
- (a) **Noncompliance:** Upon Class I notice and after a public hearing conducted by the Plan Commission, any permit may be revoked by the Plan Commission in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.
 - (b) **Installation Delay:** Any sign permit issued by the Zoning Administrator shall be null and void and automatically revoked in the event that installation of the sign has not been commenced within 180 days from the date of issuance of the permit, and if the sign has not been completed within 240 from the date of issuance of the permit. If work authorized by such permit is suspended or abandoned for a period of 90 days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.
 - (c) **Removal:** Upon revocation of a permit, the sign(s) subject to such revoked permit, whether free-standing, overhanging or projecting, shall be removed by the permittee within 45 days of such revocation.
 - (d) **Fee Refund:** Revocation shall not entitle the licensee to a total or partial reimbursement of license fees paid.
- (10) **EFFECT ON OTHER PERMITS:** Once a sign permit is granted, no other permit (e.g. Erosion Control Permit, Site Plan approval, Certificate of Occupancy, Driveway permit, sewer/water hook-up permit, Building Permit, etc.) shall be issued for any development which

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is inconsistent with the granted sign permit and this Ordinance.

(11) FEE:

- (a)** All applicants shall pay a sign permit fee which shall be established by resolution of the Town Board. Any sign permit fee paid hereunder for any one sign may not be assigned or transferred to any other sign or modified sign face or sign structure.
- (b)** Sign permit fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c)** A double fee shall be charged by the Zoning Administrator if work is started on the sign before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (d)** All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
- (e)** The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.907 SITE PLAN APPROVALS

- (1) PURPOSE:** The purpose of this Section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this Section are designed to ensure that proposed land use and development activities comply with the requirements of this Chapter. Specifically, this Section requires that the initiation of all development activity for principal structures of non-residential and multifamily residential developments (including building permits, zoning certificates, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of site, building and operational plans by the City Plan Commission before the building, occupancy, and zoning permits can be issued except, however, that development activity associated with an approved final plat of subdivision or certified survey map for single-family and/or duplex/twin home dwelling units, and development activity associated with the full and complete implementation of a project approved within the PIP phase of the Planned Unit Development District [PUD] is exempt from this requirement.
- (2) APPLICATION REQUIREMENTS:** All applications for approval of proposed site plans shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete site plan application shall contain the following:
 - (a) Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) Written Description** of the intended use describing in reasonable detail the following:
 1. Existing zoning district(s) on the subject property.
 2. Proposed zoning district(s) on the subject property (per Subchapter 2);
 3. Current land uses present on the subject property;
 4. Proposed land uses for the subject property (per Subchapter 4);
 5. Projected number of residents, employees, and/or daily customers;
 6. Proposed amount of dwelling units, floor area, impervious surface area, and

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- landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
7. Intended hours of operation;
 8. Traffic generation and traffic volumes expected;
 9. Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in Subchapter 5 including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of Subchapter 5), then the statement "The proposed development shall comply with all requirements of Subchapter 5." shall be provided;
 10. Exterior building and fencing materials (§22.529 and §22.533);
 11. Possible future expansion and related implications for 1-10, above, and;
 12. Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.
- (c) **Location Map** at 11" x 17" showing the subject property and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the Town's Land Use Plan Map with the subject property clearly indicated shall suffice to meet this requirement.)
- (d) **Property Site Plan Drawing** (and reduction at 11" x 17") which includes:
1. A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;
 2. The date of the original plan and the latest date of revision to the plan;
 3. A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
 4. A legal description of the subject property;
 5. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
 6. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
 7. All required building setback lines;
 8. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
 9. The location and dimension (cross-section and entry throat) of all access points onto public streets;
 10. The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this Ordinance;
 11. The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
 12. The location of all outdoor storage areas and the design of all screening devices;
 13. The location, type, height, size and lighting of all signage on the subject property;
 14. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property including the clear demonstration of compliance with §22.514;

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15. The location and type of any permanently protected green space areas;
 16. The location of existing and proposed drainage facilities; and
 17. In the legend, data for the subject property:
 - a. Lot Area;
 - b. Floor Area;
 - c. Floor Area Ratio;
 - d. Impervious Surface Area;
 - e. Building Coverage;
 - f. Building Height.
- (e) **Detailed Landscaping Plan** of the subject property, at the same scale as the main plan (and reduction at 11@ x 17@), showing the location of all required buffer yard and landscaping areas, and existing and proposed Landscape Point fencing and berm options for meeting said requirements. The Landscaping Plan shall demonstrate complete compliance with the requirements of Subchapter 6. (NOTE: the individual plant locations and species, fencing types and heights, and berm heights need to be provided.)
- (f) **Grading and Erosion Control Plan** at the same scale as the main plan (and reduction at 11@ x 17@) showing existing and proposed grades, including retention walls and related devices, and erosion control measures per the approval of the City Engineer.
- (g) **Elevation Drawings** of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings. (Refer to §22.529).
- (h) **Certified Survey** may be required in instances where the Administrator or the Plan Commission determines that compliance with setback requirements may be difficult. The survey shall be prepared by a registered land surveyor and shall depict property lines and proposed buildings, structures, and paved areas.
- (i) **Detailed Site Analysis Map** is required if the proposed site has any natural resource protection areas (RPA). If so, a map of the subject property which depicts the location of all protected natural resource areas, as defined by the provisions of this Subchapter. Town Staff shall review the submitted detailed site analysis map for general compliance with the following data sources:
- 1). The Official Zoning Map;
 - 2). Applicable USGS 7.5 minute topographic maps for the Town and its environs;
 - 3). Air photos of the subject property;
 - 4). USGS Quads and other sources of topographic information;
 - 5). Applicable FEMA and related floodplain maps;
 - 6). Applicable Federal and State Wetland Inventory Maps;
 - 7). The Comprehensive Master Plan.
- (3) **REVIEW BY ZONING ADMINISTRATOR:** The application shall be reviewed by the Zoning Administrator, or designee, to determine whether the application fulfills the requirements of section (2) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (2) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (2), he shall so notify Applicant and forward the application to the Plan Commission for further action.

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(4) REVIEW BY THE PLAN COMMISSION:

- (a) Referral to Plan Commission:** Once the application is referred to the Plan Commission, the Commission may request further information and/or additional reports from the Zoning Administrator, the Applicant, expert consultants and/or from any other source. The Plan Commission shall take final action on the application pursuant to the following procedure.
- (b) Formal Decision:** Within 60 days after referral to the Plan Commission (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission shall issue a decision either (i) in the form of a written resolution, and/or (ii) in the form of written minutes of its meeting. Its decision shall include formal findings of fact concerning the standards of subsection (c) below. In making its decision the Plan Commission,
1. may approve the site plan as originally proposed, or
 2. may approve the site plan with such modifications and/or conditions as it deems necessary and appropriate after consideration of the standards of review set forth below and consideration of the recommendations of the Site Plan Review Committee, the Zoning Administrator, outside experts, its own members, and any other source, or
 3. may deny approval of the site plan.

If additional modifications and/or conditions are required, the Plan Commission may withhold approval of the Site Plan until revisions depicting such additional modifications and/or conditions are submitted to the satisfaction of the Plan Commission, or its designee. Such modifications and/or conditions shall be made a part of the official record, and development activity on the subject property may not proceed until the revised site plan has been prepared, submitted and approved by the Plan Commission or its designee. The Plan Commission's approval of the site plan shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed site plan.

- (c) Standard of Review:** In reviewing the site plan the Plan Commission shall make findings on each of the following criteria to determine whether the submitted site plan shall be approved, approved with modifications and/or conditions, or denied:
1. Whether all standards of the Zoning Ordinance and other applicable Town, State and Federal regulations are met.
 2. Whether the public health and safety is endangered.
 3. Whether adequate public facilities and utilities are provided.
 4. Whether adequate control of storm water and erosion are provided, and the disruption of existing drainage patterns and vegetative cover is minimized insofar as is practical.
 5. Whether appropriate traffic controls and parking are provided.
 6. Whether appropriate landscaping and open space areas are provided.
 7. Whether the appearance of structures maintains a consistency of design, materials, colors, and arrangement with nearby properties of similar use, which comply with the general architectural guidelines provided in subsections a. through e. below:
 - a. Exterior construction materials shall be consistent with §22.529.
 - b. Exterior building design or appearance shall not be of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
 - c. Exterior building design or appearance shall not be so identical with

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- nearby buildings so as to create excessive monotony or drabness.
- d. Exterior building design or appearance shall not be constructed or faced with an exterior material which is aesthetically incompatible with other nearby buildings or which presents an unattractive appearance to the public and surrounding properties.
 - e. Exterior building, sign, and lighting design or appearance shall not be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area.
 - f. The basic intent of the Zoning Ordinance is fulfilled to ensure attractive, efficient, and appropriate development of land in the community.
8. Whether reasonable steps have been taken to avoid depreciating effects on surrounding property and the natural environment.
- (5) **INITIATION OF LAND USE OR DEVELOPMENT ACTIVITY:** Except with the written permission of the Zoning Administrator, absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this Chapter and shall be subject to all applicable enforcement mechanisms and penalties. Any permission granted by the Zoning Administrator shall not be interpreted or construed, directly or indirectly, as an approval of the proposed development by the Plan Commission. Moreover, any permission granted by the Zoning Administrator can be revoked or modified by the Zoning Administrator or the Plan Commission at any time prior to final approval by the Plan Commission of the development.
- (6) **MODIFICATION OF AN APPROVED SITE PLAN:** Any and all variations between development and/or land use activity on the subject property and the approved site plan is a violation of this Chapter. An approved site plan shall be revised and approved via the procedures of this Section, so as to clearly and completely depict any and all proposed modifications to the previously approved site plan, prior to the initiation of said modifications.
- (7) **SUNSET CLAUSE:** All buildings and structures approved on a site plan shall be fully developed within two (2) years of final approval of the site plan, unless a different date is established by the Plan Commission in the writing. After the expiration of such period, no additional site plan development shall be permitted on undeveloped portions of the subject property. The Plan Commission may extend this period, as requested by the Applicant, through the conditional use process following a public hearing.
- (8) **FEE:**
- (a) All applicants shall pay a site plan review fee which shall be established by resolution of the Town Board. This fee shall include the reimbursable costs incurred by the Town. See, §22.937.
 - (b) Site plan review fees do not include, and are in addition to, building permit fees established by the Town Building Code, and other fees which may be imposed for driveways, etc.
 - (c) A double fee shall be charged by the Zoning Administrator if work is started on a project before a site plan review is applied for and approved. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
 - (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).

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- (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered ~~A complete~~ and ready for consideration until all fees have been paid.

22.908 ZONING CERTIFICATES OF OCCUPANCY

- (1) **PURPOSE:** The purpose of this Section is to provide regulations governing the issuance of Zoning Certificates of Occupancy. This procedure is required to verify that completed development has complied with an issued permit, an approved site plan, a conditional use, and the requirements of this Chapter as a whole.
- (2) **LAND USES AND DEVELOPMENT REQUIRING A CERTIFICATE OF OCCUPANCY:** Zoning Certificates of Occupancy shall be required for any use for which a zoning permit is required by this Ordinance, including (but not limited to) the following:
 - (a) Occupancy and use of a building or structure hereafter erected or structurally altered.
 - (b) New occupancy and/or new use of an existing building when the new use is of a different land use classification.
 - (c) Occupancy and use of vacant land.
 - (d) New use of vacant land when the new use is of a different land use classification.
 - (e) Any change in the use of a nonconforming use.

No such occupancy, use or change of use shall take place until a Zoning Certificate of Occupancy therefore has been issued by the Zoning Administrator, or designee.

- (3) **ISSUANCE OF CERTIFICATE OF OCCUPANCY:**
 - (a) **Application:** All applications for Zoning Certificates of Occupancy shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain the name and address of the applicant and the property owner, and the address and tax parcel number of the site.
 - (b) **Exemptions from Application:** Every application for a Zoning Permit, Conditional use Permit, or Building Permit shall also be deemed to be an application for a Zoning Certificate of Occupancy for a new building or for an existing building which is to be substantially altered or enlarged as determined by the Zoning Administrator. A separate application is not needed.
 - (c) **When issued:** If the work has been completed in conformity with the provisions of this Chapter, a written Zoning Certificate of Occupancy shall be issued within ten (10) working days after either (i) the application therefore has been made, or (ii) notice is given to the Town that the work authorized by a Zoning Permit, Conditional Use Permit or Building Permit has been completed and the property is ready for final zoning inspection.
 - (d) **Records:** Every Zoning Certificate of Occupancy shall state that both (i) the building and (ii) the proposed use of a building or land, substantially complies with all provisions of this Ordinance. A record of all Certificates shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

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- (4) **CERTIFICATE OF OCCUPANCY FOR LEGAL NONCONFORMING USES:** Upon application, a Zoning Certificate of Occupancy shall be issued for all legal nonconforming uses of land or buildings, created by adoption of this Chapter or in existence at the effective date of this Chapter. Any application for a Certificate for a nonconforming use, filed with the Zoning Administrator more than one (1) year after the effective date of this Chapter, shall require the applicant to prove, by clear and convincing evidence, that the use currently being made of the property is the same use of the property that was occurring on the effective date of this Chapter. It shall be the duty of the Zoning Administrator to investigate and issue Certificates of Occupancy for a legal nonconforming use.
- (5) **TERMINATION OF A CERTIFICATE OF OCCUPANCY:** It shall constitute a violation of this Chapter for any person or other entity, to do any of the things mentioned in Subsection (2), above, without having first obtained a Zoning Certificate of Occupancy. Any Certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Zoning Administrator, he shall forthwith revoke the Certificate, by notice in writing to be delivered by him to the holder of the void Certificate upon the premises where the violation has occurred, or if such holder be not found there, by mailing the said notice of revocation by Certified Letter to his last known address. Any person who shall proceed thereafter with such work or use without having obtained a new Zoning Certificate of Occupancy shall be deemed guilty of an additional violation of this Chapter.
- (6) **FEE:**
- (a) All applicants required to file a separate application for a Certificate of Occupancy shall pay a fee which shall be established by resolution of the Town Board.
- (b) Zoning Certificate of Occupancy fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
- (c) A fee established by resolution of the Town Board, shall be charged by the Zoning Administrator if occupancy occurs before a Certificate is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (d) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.909 VARIANCES

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which enable the Town to hear and decide requests for variations from the terms of this Chapter as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the provisions of this Chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done, as provided by §62.23(7)(e)(7) Wis. Stats.
- (2) **DIFFERENT TYPES OF VARIANCES:** There are two types of variances:
- (a) **Area Variances:** Area variances address regulations regarding density, setbacks, frontage, height, landscaping, lighting, lot size, and other dimensional regulations which are designed to address uniformity of development, lot size, building configuration and size, and other similar features. Area variances do not

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- address how a property may be used.
- (b) **Use Variances:** AUse@ variances address how a property may be used, and primarily seek to vary or circumvent the list of allowable land uses prescribed for the property as contained in Subchapter 2. AUse@ variances do not address the kind of dimensional regulations addressed by area variances. However, care must be taken to not permit an applicant to label a AUse@ variance as an Aarea@ variance in order to circumvent the more difficult standards applicable to AUse@ variances.
- (3) **INITIATION OF REQUEST FOR APPROVAL OF A VARIANCE:** Proceedings for approval of a requested variance shall be initiated by an application of the owner(s) of the subject property, or their legally authorized representative(s).
- (4) **APPLICATION REQUIREMENTS:** All applications for variances shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
- (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
- (b) **Site Map:** A map of the subject property showing all lands for which the variance is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the tax records. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- (c) **View Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the Town as a whole.
- (d) **Description:** A written description of the proposed variance, providing specific reference to those sections of this Chapter from which the Applicant seeks relief, describing the specific terms, conditions and requirements of the variance proposed for the subject property, and identifying whether a AUse@variance or an Aarea@ variance is being requested.
- (e) **Site Plan:** A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of §22.907(3).
- (f) **Written Justification:** Written justification for the requested variance consisting of the reasons why the Applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the standard set out in Subsection (5)(e) below.
- (5) **REVIEW BY ZONING ADMINISTRATOR:**
- (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall so notify Applicant and forward the application to the Board of Appeals for further action.

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- (b) The Zoning Administrator shall review and evaluate the application and shall comment in writing to the Board of Appeals on the variance requested in the application, taking into consideration the review standards of §22.906(6)(e) below. The Zoning Administrator's written comments shall be submitted to the Board of Appeals on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
- (c) The Zoning Administrator shall not refer the application to the Board of Appeals and no one shall place the application on the Board's agenda until the Zoning Administrator, or designee, has certified that the application is complete.

(6) REVIEW AND DETERMINATION BY ZONING BOARD OF APPEALS:

- (a) **Submission to Zoning Board Of Appeals Required:** Pursuant to §62.23(7)(e) Wis. Stats., no variance shall be granted except by review and action of the Zoning Board of Appeals pursuant to this Chapter.
- (b) **Public Hearing:** The Board of Appeals shall schedule a reasonable time and place for a public hearing to consider the application within thirty (30) days after filing of the complete application. The applicant may appear in person, by agent, and/or attorney.
- (c) **Notice:** Notice of the requested variance and the public hearing shall conform to the requirements of §62.23(7)(e) Wis. Stats. Said notice shall contain a description of the subject property and the proposed variance. In addition, at least ten days before said public hearing, the Clerk shall mail an identical notice to the Applicant of the proposed variance; to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the subject property; and to all property owners within 200 feet of the boundaries of the subject property as identified in Subsection (3) above. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
- (d) **Formal Decision:** Within thirty (30) days after the holding of the public hearing, or within an extension of said period approved by the Applicant and granted by the Zoning Board of Appeals, the Zoning Board of Appeals shall make its findings and its determination regarding the application as a whole. The Zoning Board of Appeals may request further information and/or additional reports from the Zoning Administrator and/or the Applicant. The Zoning Board of Appeals may take final action on said request for approval of the requested variance at the time of its initial meeting, or said proceedings may be continued from time-to-time for further consideration. The Zoning Board of Appeals shall make a written report of its findings and determinations concerning the standards of subsection (e) below.
- (e) **Standards of Review:** The following factors must be found to exist by the Board of Appeals in making its decision regarding a request for a variance, and each factor shall be addressed in the Board's official written decision:
 - 1. The requested variance must be in harmony with the recommendations of the Comprehensive Master Plan.
 - 2. The land must present an exceptional or extraordinary circumstance or condition which unreasonably prevents the owner from using the property for a permitted purpose or which makes conformity with the requirements of this Chapter unnecessarily burdensome. The response to this question shall clearly indicate how the subject property contains factors which are not present on other properties in the same zoning district. Specifically:
 - a. The hardship or difficulty shall be peculiar to the subject property

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- and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, and will not accommodate a structure of reasonable design for a permitted use if all area requirements are observed;
- b.** Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - c.** Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner=s predecessor in title are considered to be such self-imposed hardships;
 - d.** Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - e.** The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)
- 3.** The variance must be needed so that the subject property can be developed in a manner similar to that of other properties under the same zoning district. The response to this question shall clearly indicate how the requested variance is essential to make the subject property reasonably developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.
 - 4.** The granting of the proposed variance must not be a substantial detriment to adjacent properties. The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.
 - 5.** The granting of the proposed variance must not result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development. The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.
 - 6.** The exceptional or extraordinary circumstance or condition which the applicant claims as justification for the proposed variance must not have been created by the acts or omissions of the applicant or the applicant=s predecessor- in-title (e.g. previous development decisions such as building placement, floor plan, building orientation, platting pattern, grading, etc.) after the effective date of this Ordinance. The response to this question shall clearly indicate that such factors existed prior to the effective date of this Chapter and were not created by action of the Applicant or the applicant=s predecessors-in-title.
 - 7.** If the proposed variance is a Use@ variance, then, in addition to the foregoing standards, the applicant must also establish that the applicant will have no reasonable use of the property if the variance is not granted.

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- (f) **Effect of Inaction:** If the Zoning Board of Appeals fails to make a determination within thirty (30) days after said public hearing, then the request for the variance shall be considered denied.
- (7) **EFFECT OF DENIAL:** No application for a variance which has been denied (in whole or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, unless the Zoning Administrator first determines that either (i) substantial and material new evidence has arisen, or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (8) **LIMITED EFFECT OF A VARIANCE:** Where the Zoning Board of Appeals has granted a variance, such approval shall not change the *Ause@* classification of either the building or premises, nor give it any new status as a *Anonconforming use@* other than that status which it held before the granting of the variance. Granting of a variance shall be considered unique to the variance granted, and shall not be construed as precedent for any other proposed variance.
- (9) **STAY OF PROCEEDINGS:** An application for a variance shall stay all legal proceedings furthering enforcement of any provisions of this Ordinance from which the Applicant is requesting a variance, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the request for the variance has been filed, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a Court of Record. *State Law Reference: Section 62.23(7)(e)5., Wisconsin Statutes.*
- (10) **NOTICE TO THE DNR:** The Zoning Board of Appeals shall transmit a copy of each application for a variance in the Shoreland-Wetland, Floodway, Floodplain Conservancy, or Floodway Fringe Overlay Zoning Districts, and a copy of all Shoreland floodland appeals, to the Wisconsin Department of Natural Resources (DNR) and Juneau County for review and comment at least ten (10) days prior to any public hearings. Final action on the application shall not be taken for thirty (30) days or until the DNR and Juneau County have made their recommendation, whichever comes first. A copy of all decisions relating to variances to shoreland conservancy regulations or to floodland regulations, and a copy of all decisions to shoreland conservancy and floodland appeals, shall be transmitted to the DNR and Juneau County within ten (10) days of the date of such decision.
- (11) **FEE:**
- (a) All applicants shall pay an application fee for a variance which shall be established by resolution of the Town Board.
- (b) Variance fees do not include, and are in addition to, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
- (c) A double application fee shall be charged by the Town if an application is submitted after the Applicant has committed an act or omission for which the Applicant now seeks a variance. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
- (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An

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application is not considered complete and ready for consideration until all fees have been paid.

22.910 INTERPRETATIONS

- (1) **PURPOSE:** The purpose of this Section is to assign responsibility for the official interpretation of the provisions of this Chapter, and to describe the required procedure for securing such interpretation.
- (2) **INITIATION OF REQUEST FOR AN INTERPRETATION:** Proceedings for an interpretation may be initiated by any of the following four methods:
 - (a) By an application of a resident or land owner in the Town;
 - (b) By a request of the Plan Commission;
 - (c) By a request of the Town Board; or
 - (d) By a request of the Zoning Administrator.
- (3) **APPLICATION REQUIREMENTS:** All applications from residents or land owners shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall be comprised of all of the following:
 - (a) **Applicant Info:** Name and address of the applicant.
 - (b) **Text:** All requests for interpretations shall clearly indicate the part of the text of this Chapter for which the interpretation is requested and the specific questions the Applicant has regarding said text. If the Applicant believes that the text is subject to several reasonable interpretations, the Applicant shall set forth all such interpretations.
 - (c) **Specific Property:** If the requested interpretation relates to the application of this Chapter to a specific property, the additional following information shall be required:
 1. A map of the subject property showing all lands for which the interpretation is requested, and all other lands within 200 feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 2. A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the Town as a whole;
 3. A written explanation of the issue which needs interpretation, including the applicant's proposed interpretation, and an explanation of how the proposed interpretation relates to the type of activities, buildings, and structures currently located on, and/or proposed for, the subject property; and,
 4. If requested by the Zoning Administrator, a site plan of the subject property as proposed for development. Said site plan shall conform to all the requirements of §22.907(4) or such requirements as the Administrator may require.
 - (d) **Land Use:** If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this Chapter, a series of written

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responses to the following questions shall be provided:

1. How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the Town?
2. How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?
3. Do the potential public benefits of the proposed interpretation outweigh any and all potential adverse impacts of the proposed interpretation?

(4) REVIEW BY ZONING ADMINISTRATOR:

- (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall commence his review thereof.
- (b) Within thirty (30) days of filing of a complete application, the Zoning Administrator shall review and evaluate the application. This review shall take into consideration the standards for review presented in subsection (5), below. In evaluating the application, the Zoning Administrator may consult with consultants and City Staff, such as the Town Attorney. The Zoning Administrator shall also evaluate the application to determine whether the request is in harmony with the recommendations of the Comprehensive Master Plan.
- (c) The Zoning Administrator, or such consultants or staff as the Zoning Administrator may deem appropriate (e.g. Town Attorney), shall prepare and forward a written report to the Applicant indicating the interpretation of the Zoning Administrator. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report. A Copy of all such reports shall be forwarded to the Plan Commission.

(5) STANDARDS FOR REVIEW OF REQUESTED INTERPRETATIONS: This Chapter shall be interpreted in a manner which is consistent with the purposes intended by the Town Board as noted in this Chapter and the Comprehensive Plan. The intent of the standards and supporting definitions of this Chapter is to protect both individual property owners and the general public from adverse impacts that may result from a proposed, modified, or existing land use. To this end, those called upon to interpret this Chapter shall address the following to the extent applicable:

- (a) Articulate certain public purpose(s) underlying the standard(s) for which an interpretation is required.
Rationale: Before any zoning interpretation is made, there must be a discussion of the purpose(s) for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of both present and future neighbors and the general public. Each standard is developed as a regulatory response to an identifiable potential negative impact. A sound interpretation of any standard cannot be ensured without careful analysis of the regulation and the end toward which it is directed. It is understood that there may be other public purposes underlying the interpretation which are not explicitly articulated.

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- (b) Articulate the actual impact of various proposed interpretations, permitting flexibility in design and prohibiting any interpretation that lowers the protection afforded to the public.
- (b) Rationale: There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use, and an interpretation which permits a new or not previously permitted use, or which allows a use to be enlarged, or have its intensity increased beyond the degree specified in the Chapter. Design freedom is to be encouraged, but a lowering of the standards of this Chapter is to be prohibited.
- (c) Determine whether the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person=s land use proposal.
Rationale: If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of protection to any affected party (either the adjoining landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. Any interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this Chapter. Similarly, any interpretation which would either increase the nuisance potential of any use or alter the purpose for which the regulation was adopted shall be considered counter to the legislative intent of this Chapter. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted shall only be made if the party interpreting this Chapter has the power to impose additional restrictions or requirements.
- (d) Avoid substituting the judgment of the Administrator for the legislative acts of the Town Board.
Rationale: This Chapter has been carefully designed by the Town Board to combine maximum achievement of public goals, and the protection of adjoining property owners, while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the Comprehensive Plan. Great care has been taken to balance the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this Chapter should not substitute their own judgments for the legislative acts of the Town Board.
- (e) Address the following standards on land use interpretation matters:
1. No interpretation shall allow the establishment of any land use which was previously considered and rejected by the Town Board on an application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal from a requested interpretation.
 2. No interpretation shall permit a land use listed as a use permitted by right, a special use, or a conditional use in another zoning district if the use is not listed as permitted in the zoning district of the subject property (see Subchapter 2).
 3. No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property=s zoning district.
 4. No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category.

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5. If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property=s district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a conditional use pursuant to §22.904.
- (6) **EFFECT OF A FAVORABLE LAND USE INTERPRETATION:** No interpretation finding a particular land use to be permitted or conditionally permitted in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by this Chapter. These permits and approvals include, but are not limited to, required site plans, special use permits, conditional uses, and Certificates of Occupancy.
- (7) **LIMITATIONS ON FAVORABLE LAND USE INTERPRETATION:**
- (a) No interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless a Building Permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.
- (b) An interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.
- (c) An interpretation finding a particular land use to be permitted by right or conditionally permitted shall have no precedential value. It is understood that, if the Plan Commission wished such interpretation to have precedential value, it would amend this Chapter to include such interpretation herein. It is also understood that mistakes in interpretation often become apparent only after the interpretation becomes effective and the use is employed and observed.
- (8) **FEE:**
- (a) All applicants shall pay an application fee for an interpretation, which fee shall be established by resolution of the Town Board.
- (b) Interpretation fees do not include, and are in addition to, zoning permit fees and other fees established by this Chapter, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
- (c) A fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (d) All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
- (e) The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered a complete@ and ready for consideration until all fees have been paid.

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22.911 APPEALS OF ZONING DECISIONS

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which enable the Town to hear and decide requests for appeals from the decisions of the Zoning Administrator, as provided for by 62.23(7)(e) Wis. Stats.
- (2) **INITIATION OF REQUEST FOR REVIEW OF ZONING DECISION:** Proceedings for the review of an appeal may be initiated by any aggrieved person, or by any officer, department, board, committee or commission of the Town affected by any decision of the Zoning Administrator.
- (3) **TIME LIMIT FOR FILING AN APPEAL:** An appeal shall be made within a period not exceeding forty-five (45) days from the date of issuance of the decision from which the appeal is taken. Failure to initiate this appeal procedure within this 45-day period shall constitute a final and binding waiver of the right to appeal said interpretation.
- (4) **APPLICATION REQUIREMENTS:** All applications for review of an interpretation, regardless of the party of their initiation per Subsection (2) above, shall be submitted to the Clerk, or designee, who shall determine if the application is complete. The Clerk shall act as the clerk for the Zoning Board of Appeals in receiving said Applications. A complete application shall contain all of the following:
 - (a) Name and address of the applicant, the owner of the site and the address and tax parcel number for the site.
 - (b) A copy of all documents previously submitted by the Applicant to the Town which relate to the issue of the appeal. (The Town will supply copies of these items, at Applicant=s expense, if the Applicant has lost or misplaced his/her own copies).
 - (c) A written statement from the Applicant specifying the grounds for the appeal. Such statement shall indicate the reasons why an appeal is justified, based upon an analysis of the Zoning Administrator=s decision. This statement shall be dated and signed by the Applicant.
- (5) **REVIEW BY CLERK AND ZONING ADMINISTRATOR:** The submitted application shall be reviewed by the Clerk and the Zoning Administrator in the following steps:
 - (a) The Clerk, or designee, shall determine whether the application fulfills the requirements of section (4) above. If the Clerk determines that the application does not fulfill the requirements of section (4), he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Clerk determines that the application is complete, he shall so notify Applicant and forward the application to both the Zoning Administrator and the Zoning Board of Appeals.
 - (b) The Zoning Administrator shall review and evaluate the application, and shall comment, in writing, on the written justification for the appeal to the Zoning Board of Appeals. The Zoning Administrator shall also evaluate the application to determine whether the request is in harmony with the recommendations of the Comprehensive Master Plan. Before the date set for the Public Hearing, the Zoning Administrator shall forward this written report to the Board of Appeals, and the Applicant, along with copies of all papers constituting the record of the Zoning Administrator on this application. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the Master Plan or Zoning Ordinance, the Zoning Administrator shall note this determination in the report.

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(6) REVIEW AND ACTION BY THE ZONING BOARD OF APPEALS:

- (a) Public Hearing:** The Zoning Board of Appeals shall schedule a reasonable time and place for a public hearing, within forty-five (45) days after the Clerk determines that the application is complete.
- (b) Notice:** Notice of the appeal and said public hearing shall conform to §63.23(7)(e) of the Wis. Stats. Said notice shall contain a description of the appealed issue. At least ten (10) days before said public hearing, the Clerk shall mail an identical notice (i) to the Applicant, (ii) to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter, and (iii) to any property owner within 200 feet of the subject property. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
- (c) Formal Decision:** Within sixty (60) days after the filing of the complete application (or, within an extension of said period requested in writing by the Applicant and granted by the Zoning Board of Appeals), the Zoning Board of Appeals shall make its findings. The Zoning Board of Appeals may request further information and/or additional reports from The Zoning Administrator and/or the Applicant. The Zoning Board of Appeals may take final action on the application for appeal at the time of its initial meeting, or may continue the proceedings at Applicant=s request. Said final action shall be followed by a written report which shall include formal findings of facts developed and approved by the Zoning Board of Appeals concerning the request.
- (d) Board=s Authority:** Pursuant to §62.23(7)(e)8 Wis. Stats., the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator.
- (e) Effect of Inaction:** If the Zoning Board of Appeals fails to make a determination within sixty (60) days after the filing of said complete application, then the request for the appeal shall be considered denied.

- (7) EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Zoning Administrator, or designee, first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.

(8) LIMITED EFFECT OF A FAVORABLE RULING ON AN APPEAL:

- (a)** No ruling by the Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the ruling on the appeal, unless a building permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.
- (b)** A ruling by the Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the ruling was issued. The ruling shall not be deemed to authorize any allegedly similar use for which a separate ruling has not been issued. A favorable ruling shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

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(9) FEE:

- (a)** All applicants shall pay an application fee for an appeal, which fee shall be established by resolution of the Town Board.
- (b)** Appeal fees do not include, and are in addition to, zoning permit fees and other fees established by this Chapter, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
- (c)** A fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (d)** All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
- (e)** The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.912 RESERVED FOR FUTURE USE**22.913 PLANNED DEVELOPMENT DISTRICT PROCEDURES****(1) PURPOSE:**

- (a)** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed Planned Developments, and to provide for the possible relaxation of certain development standards pertaining to the underlying standard zoning district.
- (b)** PUDs are intended to provide more incentives for development and redevelopment in areas of the community which are experiencing a lack of significant investment. Furthermore, PUDs are designed to forward both the aesthetic and economic development objectives of the Town by controlling the site design and the appearance, density or intensity of development in terms of more flexible requirements for land uses, density, intensity, bulk, landscaping, and parking requirements. In exchange for such flexibility, the PUD shall provide a much higher level of site design, architectural control and other aspects of aesthetic and functional excellence than normally required for other developments.
- (c)** PUDs have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Chapter. In addition to such potential, also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except with a binding site plan, landscape plan and architectural plan, and on a case by case basis. In order to prevent this from occurring, all PUD=s are required to meet certain stringent procedural requirements applicable only to PUD=s, in addition to the general requirements of this Chapter. A public hearing process is required to review a request for a PUD. This process shall essentially combine the process for a zoning map amendment with that required for a conditional use, with several additional requirements.

(2) EXTENT OF FLEXIBLE DEVELOPMENT STANDARDS:

- (a) Permitted Location:** PUDs shall be permitted with the approval of a Planned

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Development Zoning District, specific to the approved PUD, within all zoning districts.

(b) Flexible Development Standards: The following exemptions to the development standards of the underlying zoning district may be provided with the approval of a PUD:

1. **Land Use Requirements:** All land uses listed as *Residential*, *Institutional*, or *Commercial* in Subchapter 2 may be permitted within a PUD.
2. **Density and Intensity Requirements:** All requirements listed in Subchapter 2 for residential density and nonresidential intensity may be waived or modified within a PUD.
3. **Bulk Requirements:** All bulk requirements listed in Subchapter 2 may be waived or modified within a PUD.
4. **Landscaping Requirements:** All requirements listed in Subchapter 6 may be waived or modified within a PUD.
5. **Parking and Loading Requirements:** All requirements listed in Sections 22.509 and 22.511 may be waived or modified within a PUD.

(c) Requirements to Depict All Aspects of Development: Only development which is explicitly depicted on the required site plan approved by the Town Board as part of the approved PUD, shall be permitted, even if such development (including all aspects of land use, density and intensity, bulk, landscaping, and parking and loading), is otherwise listed as permitted in Subchapter 2. Requested exemptions from these standards shall be made explicit by the Applicant in the application, and shall be recommended by the Plan Commission and approved explicitly by the Town Board. If not so requested and approved, such exemptions shall not be permitted.

(3) INITIATION OF REQUEST FOR APPROVAL OF A PUD: Proceedings for approval of a PUD shall be initiated:

- (a)** By an application of the owner(s) of the subject property;
- (b)** By a recommendation of the Plan Commission; or
- (c)** By action of the Town Board.

(4) APPLICATION REQUIREMENTS: All applications for proposed PUD=s, regardless of the party of their initiation per (3) above, shall follow each of the process steps in (5) through (8) below.

(5) STEP 1: PRE-APPLICATION CONFERENCE:

- (a)** The Applicant shall contact the Zoning Administrator to place an informal discussion item for the PUD on the Plan Commission agenda.
- (b)** To be placed on the agenda, no details are required except the following: the names and addresses of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project (if known), and the address and tax parcel number for the site, and a general description of the proposed PUD.
- (c)** At the Plan Commission meeting, the Applicant shall engage in an informal discussion with the Plan Commission regarding the potential PD. Appropriate topics for discussion may include the location of the PD, general project themes and images, the general mix of dwelling unit types and/or land uses being considered, approximate residential densities and non-residential intensities, the general treatment of natural features, the general relationship to nearby properties and public

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streets, and relationship to the Master Plan.

- (d) Points of discussion and conclusions reached in this stage of the process shall not be binding, directly or indirectly, upon the Applicant or the Town, but shall be considered as merely an informal, non-binding discussion designed to give the Applicant some feedback, positive and/or negative, on the proposal and to give the Plan Commission some general background before proceeding to the next step.

(6) **STEP 2: CONCEPT PLAN:**

- (a) **Submittal packet:** The Applicant shall submit to the Zoning Administrator a draft PD Concept Plan Submittal Packet, which shall contain all of the following items:

1. **Location Map:** A location map of the subject property and its vicinity at 11@ x 17@, as depicted on a copy of the Land Use Plan Map;
2. **General Description:** A general written description of proposed PD including:
 - a. General project themes and images;
 - b. The general mix of dwelling unit types and/or land uses;
 - c. Approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. The general treatment of natural features;
 - e. The general relationship to nearby properties and public highways;
 - f. The general relationship of the project to the Master Plan;
 - g. An initial draft list of zoning standards which will not be met by the proposed PD and the location(s) in which they apply and, a complete list of zoning standards which will be more than met by the proposed PD and the location(s) in which they apply. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility; and
3. **Requested Exemptions:** A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
 - a. Land Use Exemptions;
 - b. Density and Intensity Exemptions;
 - c. Bulk Exemptions;
 - d. Landscaping Exemptions; and
 - e. Parking and Loading Requirements Exemptions;
4. **Conceptual Plan:** A conceptual plan drawing (at 11@ x 17@) of the general land use layout and the general location of public highways and/or private drives. The Applicant may submit copies of a larger version of the Abubble plan@ in addition to the 11@ x 17@ reduction.

- (b) **Review by Administrator:** The Zoning Administrator, or designee, shall determine whether the PD Concept Submittal Packet fulfills the requirements of section (a) above. If the Zoning Administrator determines that the packet does not fulfill the requirements of section (a) above, he shall return it to the Applicant with a brief statement identifying how it is inadequate. If the Administrator determines that the packet fulfills the requirements of section (a), he shall so notify Applicant and shall

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place the matter on the Plan Commission agenda.

(c) **Review by Plan Commission:** At the Plan Commission meeting, the Applicant shall engage in an informal discussion with the Plan Commission regarding the conceptual PD. Appropriate topics for discussion may include the any of the information provided in the PD Concept Plan Submittal Packet, or other items as determined by the Plan Commission.

(d) **Non-Binding Effect:** Points of discussion and conclusions reached in this stage of the process shall not be binding, directly or indirectly, upon the Applicant or the Town, but shall be considered as merely an informal, non-binding basis for proceeding to the next step.

Rationale: The foregoing procedures are intended to give the Plan Commission several informal reviews of the concept plan before introduction of the formal petition for rezoning which accompanies the next step, the formal GDP application. Although time-consuming, this informal process is designed to give the Plan Commission lots of time to consider the PD, and at the same time, give the applicant lots of feed-back so that the time and expense of the formal petition is minimized (or perhaps eliminated), by incorporation into the GDP of the comments and concerns raised during this preliminary informal process.

(7) **STEP 3: GENERAL DEVELOPMENT PLAN (GDP):**

(a) **Purpose:** The purpose of this step is to evaluate whether the zoning for the proposed site should be changed from its current zoning to PUD zoning which will create zoning unique to the property. Therefore, the focus of this step is on the same types of issues which affect all changes of zoning, i.e. density, intensity, the mix of use and the arrangement of site design. The details of the PUD are generally reserved for Step 4, but in some cases those details may need to be also addressed in Step 3, depending upon the concerns of the Plan Commission. For example, in Step 3 a general discussion of landscaping exemptions is necessary, but in Step 4 a full and complete landscaping plan is required. However, if landscaping for the site is of particular concern, some of the details reserved for Step 4 may be requested in Step 3. Hence, it is important to understand that while Steps 3 and 4 are separate steps in this Chapter, they may become combined in practice on a case-by-case basis.

(b) **Submittal Packet:** The Applicant shall submit to the Zoning Administrator a draft GDP Plan Submittal Packet , which shall contain all of the following items:

1. **Location Map:** A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the Land Use Plan Map;
2. **Site Map:** A map of the subject property showing all lands for which the planned development is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Juneau County (as provided by the Town). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
3. **General Description:** A general written description of the proposed PD including:

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- a. General project themes and images;
 - b. The general mix of dwelling unit types and/or land uses;
 - c. Approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. The general treatment of natural features;
 - e. The general relationship to nearby properties and public streets;
 - f. The general relationship of the project to the Master Plan;
 - g. A Statement of Rationale as to why PD zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed PD zoning;
 - h. A complete list of zoning standards which will not be met by the proposed PD and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed PD and the location(s) in which they apply shall be identified. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility;
 - i. A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
 - 1). Land Use Exemptions;
 - 2). Density and Intensity Exemptions;
 - 3). Bulk Exemptions;
 - 4). Landscaping Exemptions;
 - 5). Parking and Loading Requirements Exemptions.
4. **GDP Drawing:** A General Development Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
- a. A conceptual plan drawing (at 11" x 17") of the general land use layout and the general location of public highways and/or private drives. The Applicant may submit copies of a larger version of the "bubble plan" in addition to the 11" x 17" reduction;
 - b. Location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. Statistical data on minimum lot sizes in the development, the approximate areas of large development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Plan Commission or Town Board; and
 - d. Notations relating the written information provided in (7)(b)3., above to specific areas on the GDP Drawing.
5. **Landscaping:** A general conceptual landscaping plan for subject property, noting approximate locations of foundation, street, yard and paving, landscaping, and the compliance of development with all landscaping requirements of this Ordinance (except as noted in the listing of exceptions) and the use of extra landscaping and bufferyards.
6. **Signage:** A general signage plan for the project, including all project

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identification signs and concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from Town standards or common practices.

7. **Written Justification:** Written justification for the proposed Planned Development. (The Applicant is advised to use the requirements of the conditional use procedure to develop said written justification.)
 - (c) **Review by Administrator:** The Zoning Administrator, or designee, shall determine whether the GPD Submittal Packet fulfills the requirements of section (b) above. If the Administrator determines that the packet does not fulfill the requirements of section (b) above, he shall return it to the Applicant with a brief statement identifying how it is inadequate. If the Administrator determines that the packet does fulfill the requirements of section (b) above, he shall so notify Applicant and shall place the matter on the Plan Commission agenda.
 - (d) **Review by Plan Commission:** The process for review and approval of the GDP shall be identical to that for conditional use permits per §22.904 of this ordinance and (if land is to be divided) to that for preliminary and final plats of subdivision per the Town Code.
- (8) **STEP 4: PRECISE IMPLEMENTATION PLAN (PIP):**
- (a) **Purpose:** The purpose of this step is to obtain all the details necessary to establish specific conditions on the proposed development and operations. It is akin to a conditional use permit application for the whole development.
 - (b) **Submittal Packet:** After the effective date of the rezoning to PUD/GDP, the Applicant may file an application for a proposed Precise Implementation Plan (PIP) with the Zoning Administrator, which shall contain all of the following items:
 1. **Location Map:** A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the Land Use Plan Map. The area included in a Precise Implementation Plan may be only a portion of the area included in a previously approved General Implementation Plan.
 2. **Ownership Map:** A map of the subject property showing all lands for which the planned development is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Juneau County (as provided by the Town). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 3. **Written Description:** A general written description of proposed PIP including:
 - a. Specific project themes and images;
 - b. The specific mix of dwelling unit types and/or land uses;
 - c. Specific residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. The specific treatment of natural features;

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- e. The specific relationship to nearby properties and public streets.
 - f. A Statement of Rationale as to why PUD zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed PUD zoning.
 - g. A complete list of zoning standards which will not be met by the proposed PIP and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed PIP and the location(s) in which they apply shall be identified. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.
4. **Plan Drawing:** A Precise Implementation Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
- a. A PIP site plan conforming to all the requirements of Section 22.908(3). If the proposed Planned Development is a group development (per Section 22.414) a proposed preliminary plat or conceptual plat shall be provided in addition to the required site plan.
 - b. Location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. Statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Plan Commission or Town Board; and
 - d. Notations relating the written information provided in (8)(b)3., above to specific areas on the GDP Drawing.
5. **Landscaping:** A landscaping plan for subject property, specifying the location, species, and installed size of all trees and shrubs. This plan shall also include a chart which provides a cumulative total for each species, type and required location (foundation, yard, street, paved area or bufferyard) of all trees and shrubs.
6. **Exteriors:** A series of building elevations for the entire exterior of all buildings in the Planned Development, including detailed notes as to the materials and colors proposed.
7. **Signage:** A general signage plan for the project, including all project identification signs, concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles), and group development signage themes which are proposed to vary from Town standards or common practices.
8. **Organizational structure:** A general outline of the intended organizational structure for a property owners association, if any; deed restrictions and provisions for private provision of common services, if any.

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9. **Consistency with GDP:** A written description which demonstrates the full consistency of the proposed PIP with the approved GDP.
 10. **Variations:** All variations between the requirements of the applicable PD/GDP zoning district and the proposed PIP development.
 11. **Public Works:** The Applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.
 12. **Design Info:** The Precise Implementation Plan (PIP) submission may include site plan and design information, allowing the Plan Commission to combine design review and review of the PIP. Design review may, at the choice of the Applicant, be deferred until a later time when specific site and building developments will be brought forth.
 13. **Other:** The Plan Commission or Town Board may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the PIP, as such may be relevant to review.
- (c) **Review by Zoning Administrator:** The Zoning Administrator, or designee, shall determine whether the PIP fulfills the requirements of section (b) above. If the Administrator determines that the PIP does not fulfill the requirements of section (b) above, he shall return it to the Applicant with a brief statement identifying how it is inadequate. If the Administrator determines that the PIP does fulfill the requirements of section (b) above, he shall so notify Applicant and shall place the matter on the Plan Commission agenda.
- (d) **Process for Review:** The process for review and approval of the PUD shall be identical to that for conditional use permits per §22.904 of this ordinance and (if land is to be divided) to that for preliminary and final plats of subdivision per the Town Code, except that in addition to approval by the Plan Commission, all PUD=s must also be approved by the Town Board.
Rationale: Creation of a PUD is tantamount to an amendment to the Zoning Map and Zoning Regulations and, therefore, should be reviewed and approved by the Town Board.
- (e) **Development Time Table:** All portions of an approved PUD/PIP not fully developed within five years of final Town Board approval shall expire, and no additional PUD-based development shall be permitted. The Town Board may extend this five years period by up to five additional years via a majority vote following a public hearing.
- (9) **REVIEW AND ACTION BY THE TOWN BOARD:** The Town Board shall consider the Plan Commission=s recommendation regarding the PUD. The Board may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Board may conduct one or more meetings on the Application. The Town Board may approve the PUD as originally proposed, may approve the PUD with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny the PUD. If the Board wishes to make significant changes to the PUD, as recommended by the Plan Commission, then the procedure set forth in Steps (3) and (4) above shall again be followed prior to Board action. The Board=s approval of a PUD shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed PUD.
- (10) **MINOR CHANGES:** During the construction of a PUD, the Zoning Administrator, with the

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consent of the Town Chairman, is authorized to approve minor variations and minor changes to any previously-approved PUD, without compliance with the foregoing procedures, provided the spirit and intent of the original PUD is preserved. All such variations shall be approved in writing and, whenever the variation changes any term or condition of a written resolution previously recorded with the Register of Deeds, the variation shall also be recorded.

Rationale: The intent of this section is to avoid the expensive and time-consuming process of a PUD whenever a minor change is needed. During construction, problems often arise which require minor changes to PUD=s. It is expensive, time-consuming, unnecessary and wasteful for the Applicant, the Plan Commission and the Town to go through the whole PUD process just to approve a minor change.

(11) FEE:

- (a)** All applicants for a PUD shall pay an application fee, which fee shall be established by resolution of the Town Board.
- (b)** Application fees do not include, and are in addition to, zoning permit fees and other fees established by this Chapter, building permit fees established by the Building Code, and other fees which may be imposed for driveways, etc.
- (c)** A fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (d)** All applicants shall reimburse the Town for the time spent by Staff and consultants in reviewing and processing the application, pursuant to §22.937(4).
- (e)** The Town may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered complete and ready for consideration until all fees have been paid.

22.914 RESERVED FOR FUTURE USE**22.915 FEES**

- (1) FEES FOR PROCEDURES REQUESTED BY A PRIVATE PARTY:** The fees for the procedures and permits established by this Chapter shall be established by resolution of the Town Board.
- (2) FEES FOR PROCEDURES REQUESTED BY THE TOWN:** There shall be no fee in the case of applications filed in the public interest by the Town Board, the Plan Commission, another agency, or any official of the Town.
- (3) PAYMENT OF FEES:** Fees shall be payable at the time applications are filed with the appropriate officer of the Town (per the requirements of this Chapter), and are not refundable.
- (4) REIMBURSABLE COSTS:**
 - (a) Consultants:** The Town Planner, the Town Engineer, the Town Attorney, and other Town staff, may expend substantial amounts of time in the investigation and processing of the various applications required by this Zoning Ordinance. In addition to staff involvement, the Town may retain the services of professional consultants including, but not limited to engineers, architects, attorneys, urban planners, environmental specialists, landscaping specialists, and recreation specialists in the review, analysis, investigation and processing of such matters.

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- (b) **Payment:** Any person, firm or corporation requesting action by the Town on any application required herein, shall reimburse the Town (within the limits established herein) for (i) the cost of staff time expended in the administration, investigation and processing of applications for such applications and (ii) the cost to the Town charged by any professional consultant retained by the Town to work on any such matter. The amount charged by the Town for Staff time shall be established by Resolution of the Town Board, and the amount charged for retained consultants shall be the amount which the consultant charges to the Town. The amount which may be charged by the Town without agreement from the applicant shall not exceed \$1,000. If the reimbursable costs are likely to exceed \$1,000, the Town shall notify the applicant of the same and shall negotiate an agreement with the applicant regarding the payment of any costs exceeding \$1,000. Such agreement shall be negotiated before such costs are incurred, and notwithstanding any provision herein to the contrary, the Town may withhold action on any matter until such agreement has been reached.
- (c) **Collection of Costs:** The Town may require all or part of these costs to be paid in advance by the applicant, or the Town may withhold action on any matter until payment has been received from the applicant. Any costs not paid by the applicant may be assigned by the Town as a special assessment or charge against the subject property, or may be collected from the applicant through any procedure permitted by law.
- (d) **Appeal or Waiver of Costs:** An applicant may appeal to the Town Board the payment of costs or the terms of any agreement regarding the payment of costs. The Town Board, by resolution, may alter any such agreement or may waive all or part of any costs for any specific project, or may authorize other Staff or the Plan Commission to waive such costs.

22.916 RESERVED FOR FUTURE USE**22.917 VIOLATIONS AND PENALTIES**

- (1) **VIOLATION OF THIS CHAPTER:** It shall be unlawful for any owner, occupant, contractor, developer, builder, electrician, plumber, or other person or entity, to build, construct, maintain or repair or use any land or structure, or to engage in any development activity (including disruption of protected vegetation), in violation of any of the provisions of this Chapter, or otherwise neglect, refuse or fail to comply with this Chapter's requirements. Any and all persons (including the owner, occupant, contractor, developer, builder, electrician, plumber, etc.) who violate(s) or fail(s) to comply with any of the provisions of this Chapter shall, upon conviction thereof, be subject to the penalties set forth in Subsection (2), below, and in addition, shall pay all costs and expenses, including actual reasonable attorney=s and other fees involved in the case. Each day a violation exists or continues shall constitute a separate offense. Each person participating in or committing the offense shall be liable.
- (2) **PENALTIES:** Any person, firm, corporation or other legal entity, who fails to comply with the provisions of this Code or any order of the Zoning Administrator, shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 plus the costs of prosecution for each violation.
- (3) **TOWN CORRECTION OF VIOLATION:** In addition to any other penalty imposed by this Subchapter for a violation of the provisions of this Chapter, the Town reserves and maintains the continued right to abate violations of this Chapter.
- (4) **HAZARDOUS CONDITION CAUSED BY VIOLATION OF THIS CHAPTER:** If the Zoning Administrator determines that a violation of this Chapter exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety,

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peace, morals or decency, the Zoning Administrator shall cause the violation to be abated. Costs associated with said action shall be charged to the owner of the property on which said violation has occurred per Subsection (6), below. The Zoning Administrator is hereby authorized to abate a violation of this Chapter.

- (5) **NON-HAZARDOUS CONDITION CAUSED BY VIOLATION OF THIS CHAPTER:** If the Zoning Administrator determines that a violation of this Chapter exists, and further determines that the nature of such violation is not such as to pose great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall serve written notice by Certified Mail on the current owner of the property (as indicated by current tax records) on which said violation is occurring, to remove said violation within a period of time established by the Zoning Administrator, but not less than ten(10) working days. If such violation is not removed within such time period, the Zoning Administrator may cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (6), below.
- (6) **COST OF ABATEMENT:** In addition to any other penalty imposed by this Subchapter for a violation of the provisions of this Chapter, the cost of abating a violation of this Chapter shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred by the Town to abate the violation shall be kept by the Town, and such expenses shall be charged to and paid by the property owner. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by Certified Mail, and shall be payable within thirty (30) calendar days from the mailing thereof. If such costs and expenses remain unpaid sixty (60) calendar days from the mailing thereof, the Town shall enter such charges onto the tax roll as a special tax as provided by §66.0909 Wis. Stats.

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