

Chapter 1

Zoning Code

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Article A: Introduction

Sec. 13-1-1 Authority.

This Chapter is adopted under the authority granted by Sections 61.35, 62.23(7) and 87.30 of the Wisconsin Statutes and amendments thereto.

State Law Reference: Sections 61.35 and 62.23(7), Wis. Stats.

Sec. 13-1-2 Title.

This Chapter shall be known as, referred to and cited as the "Zoning Code, Village of Muscoda, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

Sec. 13-1-3 General Purpose.

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

Sec. 13-1-4 Intent and Purposes in View.

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- (b) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;

- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village;
- (i) Preserve and protect the beauty of the Village of Muscoda;
- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Muscoda;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

Sec. 13-1-5 Abrogation and Greater Restrictions.

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

Sec. 13-1-6 Interpretation.

- (a) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village of Muscoda.

- (b) Where the conditions imposed by any provision of this Chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- (c) No building, structure or use which was not lawfully existing at the time of the adoption of this Chapter shall become or be made lawful solely by reason of the adoption of this Chapter; and to the extent that, and in any manner that, said unlawful building, structure or use is in conflict with the requirements of this Chapter, said building structure or use remains unlawful hereunder.

Sec. 13-1-7 Severability and Non-Liability.

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (c) The Village does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Village of Muscoda, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

Sec. 13-1-8 Repeal and Effective Date.

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

Sec. 13-1-9 through Sec. 13-1-19 Reserved for Future Use.

Article B: Zoning Districts**Sec. 13-1-20 Districts Established.**

- (a) **Districts Established.** For the purpose of this Chapter, the Village of Muscoda is divided into five (5) districts as follows:
- (1) Residence District (R-1).
 - (2) Mobile Home Residence District (R-2).
 - (3) Commercial District (C).
 - (4) Industrial District (I).
 - (5) Conservancy District (W).
- (b) **District Boundaries.**
- (1) The boundaries of the aforesaid districts are established as shown on the map entitled "District Map, Muscoda, Wisconsin" , which is on file with the Village Clerk- Treasurer and is made a part of this Chapter. All notations and references shown on the District Map are as much a part of this Chapter as though specifically described herein.
 - (2) The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the District Map indicates that the various districts are approximately bounded by a street or alley line, such street or alley line shall be construed to be the district boundary line.
 - (3) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the District Map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.
 - (4) In subdivided property, the district boundary lines shown on the District Map shall be determined by use of the survey provided.
- (c) **Newly Annexed Lands.** All territory annexed to the Village shall automatically become part of the Residential District (R-1) until definite boundaries and regulations are recommended by the Village Plan Commission and adopted by the Village Board;

provided, the Village Board shall adopt definite boundaries and district regulations within ninety (90) days from the date of the annexation.

Sec. 13-1-21 Residence District (R-1).

- (a) **Purpose.** The Residence District is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses.
- (b) **Principal Uses Permitted.** The following uses are permitted in this District:
- (1) Single family dwellings and two (2) family dwellings, including manufactured homes.
 - (2) Permanent professional or announcement signs not over three (3) square feet in area, except that public or religious institutions may have, for their own use, an announcement sign or bulletin board not over eight (8) square feet in area; signs not over four (4) square feet in area pertaining to the lease, hire or sale of a building or premises, provided no advertising sign of any other character shall be permitted in the Residence District; and provided further all permitted signs shall be located within the lot lines and at least fifteen (15) feet from the inside sidewalk line. Temporary signs shall not be posted more than thirty (30) days.
 - (3) One (1) private garage which does not exceed twelve hundred (1,200) square feet in size and does not exceed one (1) story in height, or accessory buildings which are used or designed to be used for storage of the owner's or occupant's belongings exclusive of storage of any four wheeled motor vehicle.
 - (4) School administration buildings which are not used primarily for face to face student instruction and which are owned and operated by a public school district.
- (c) **Conditional Uses.** The following uses are permitted as conditional uses within this District:
- (1) Multiple family dwellings.
 - (2) Colleges and dormitories, art galleries, day care centers.
 - (3) Clinics and public hospitals and nursing homes.
 - (4) Churches, public schools, parochial schools, public libraries, public museums and similar public cultural uses.

- (5) Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops, and storage yards and penal or correctional institutions and asylums.
 - (6) Public recreational and community center buildings and grounds.
 - (7) Boarding and lodging houses; bed and breakfast establishments.
 - (8) All private and storage garages, as principal uses or structures, and private garages, as accessory uses or structures, which do not meet the standards for garages constructed as permitted uses.
 - (9) Professional offices.
 - (10) Philanthropic and charity institutions.
 - (11) Private clubs, fraternities and lodges.
 - (12) Storage garage as part of a housing development.
 - (13) Funeral homes; cemeteries.
 - (14) Home occupations.
- (d) **Height and Area.** In the Residence District the height of buildings, the minimum dimensions of yards and the minimum lot area per family shall be as follows:
- (1) **Height.** Buildings hereafter erected or structurally altered shall exceed neither thirty five (35) feet nor two and one-half (2-1/2) stories in height.
 - (2) **Side Yard.**
 - a. For buildings not over one and one-half (1-1/2) stories high, the sum of the widths of the required side yards shall not be less than twenty (20) feet, and no single side yard shall be less than ten (10) feet in width.
 - b. For buildings from one and one-half (1-1/2) stories to two and one-half (2-1/2) stories high, the sum of the widths of the required side yards shall not be less than twenty (20) feet, and no single side yard shall be less than ten (10) feet in width.
 - c. Provided, on a single lot having a width of less than sixty-six (66) feet and of record at the time of the passage of this Chapter, the sum of the widths of the side yards shall be not less than the equivalent of five and one-half (5.5) inches per foot of lot width for buildings not over one and one-half (1-1/2) stories high and of six and four tenths (6.4) inches per foot of lot

width for buildings from one and one-half (1-1/2) to two and one-half (2-1/2) stories high; provided further, the buildable width of any such lot in no case shall be reduced to less than twenty-four (24) feet, nor shall the width of any single side yard be less than forty percent (40%) of the total required side yard width.

- (3) **Setback.** Unless otherwise provided, there shall be a setback line of not less than twenty-five (25) feet, provided:
- a. Where forty percent (40%) or more of the frontage is occupied with buildings having an average setback line of more, or of less, than twenty-five (25) feet, the setback line in any vacant interior lot in such frontage shall be established at the point of intersection of its center line, drawn from the front street line, and a line connecting the nearest points on the setback lines of the next existing buildings on each side of such vacant lot.
 - b. On corner lots sixty-six (66) feet or less wide and on record at the time of the passage of this Chapter, where reversed frontage exists, the setback on the side street shall be not less than fifty percent (50%) of the setback required on the lot in the rear, and no accessory building shall project beyond the setback line of the lots in the rear; provided in no case shall the buildable width of such corner lot be reduced to less than twenty-four (24) feet.
- (4) **Rear Yard.** Principal building rear yard setback twenty-five (25) feet; accessory building three (3) feet.
- (5) **Lot Area Per Dwelling Unit.** Every building hereafter erected or structurally altered for occupancy by one (1) family shall provide a lot area of not less than ten thousand (10,000) square feet per dwelling unit, and no less than seventy-five (75) feet in width.
- (6) **Multi-Family Housing.** Standards for multi-family housing within the residence district shall be:
- a. Maximum building height of thirty-five (35) feet.
 - b. Minimum front yard setback twenty-five (25) feet.
 - c. Minimum rear yard setback twenty-five (25) feet principal building; five (5) feet accessory building.
 - d. Minimum side yard ten (10) feet each side; twenty-five (25) feet total.
 - e. Minimum average lot width one hundred (100) feet.

- f. Off-street auto parking one and one-half (1-1/2) spaces per dwelling unit [car space is ten (10) feet by twenty (20) feet].
- (7) **Principal Buildings.** All principal buildings in the Residence District shall meet the following requirements:
- a. Principal buildings shall be no less than twenty-four (24) feet in width.
 - b. Principal buildings shall have a pitched roof.
 - c. No principal building will be placed or constructed on any R-1 zoned property by any person who does not own the real estate on which the building is located or to be located.

Sec. 13-1-22 Mobile Home Residence District.

The Residence District (R-2) is intended to provide a living area that is pleasant but not so spacious as the R-1 District. Mobile homes shall be governed by state regulatory statutes and codes.

Sec. 13-1-23 Commercial District (C-1).

- (a) **Purpose.** The Commercial District is intended to provide an area for the business and commercial needs of the community, especially those which can be most suitably located in a compact and centrally located business district.
- (b) **Principal Uses Permitted.** The following uses are permitted in this District:
- (1) Animal hospital and pet shop.
 - (2) Art shop, gift shop, jewelry store, optical store.
 - (3) Automobile sales, body work, and service establishment, public garage or parking lot.
 - (4) Bank and financial institution, brokerage and pawnbroker.
 - (5) Bakery (retail).
 - (6) Barber shop and beauty parlor.
 - (7) Book and stationery store.
 - (8) Bowling alley, pool and billiard room, gymnasium, dancing school, dance hall, skating rink, theater except drive-in theater.
 - (9) Candy store, confectionery store, ice cream store, soda fountain, soft drink stand.

- (10) Clinic.
- (11) Convention and exhibition hall.
- (12) Cleaning and dyeing establishment.
- (13) Dress shop, clothing store, dry goods store, notion shop, hosiery shop, tailor shop, shoe store.
- (14) Department store.
- (15) Drug store, pharmacy.
- (16) Filling station.
- (17) Food products (retail), grocery store (retail), delicatessen, meat and fish market, fruit and vegetable store, tea and coffee store.
- (18) Florist shop.
- (19) Hardware and paint store.
- (20) Household appliance store; furniture store; plumbing, heating and electrical supplies; crockery store.
- (21) Hotel and motel.
- (22) Light industrial.
- (23) Music store, radio store, radio broadcast studio, excluding tower.
- (24) Newsstand.
- (25) Photograph studio, photographer's supplies.
- (26) Railroad and bus depot.
- (27) Restaurant, cafeteria, lunch room, refreshment stand, caterer, tavern.
- (28) Telegraph and telephone office.
- (29) Tobacco and pipe store.
- (30) Undertaking establishment.
- (31) Any other uses similar in character and the processing or treatment of products clearly incidental to the conduct of a retail business on the premises.

- (32) Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.
 - (33) Zoological gardens.
 - (34) Post offices.
 - (35) Athletic facility to include outdoor paint ball, golf driving range, miniature golf course and enclosed batting cage.
 - (36) Go-cart track.
 - (37) Sale of fireworks.
 - (38) General retail store.
- (c) **Restrictions.** In the Commercial District the restrictions shall be as follows:
- (1) **Vision Clearance.** There shall be a vision clearance of not less than ten (10) feet extending from the corner each direction, and no extension from the building should be less than ten (10) feet from the ground nor more than a ten (10) foot extension from the building above.
 - (2) **Truck Unloading Area.** Sufficient space shall be provided so that no streets or alleys need to be blocked.
 - (3) **Setback for New Commercial Development.** All new commercial development on Wisconsin Avenue from Elm Street to the Wisconsin River will have setbacks to conform to the existing setbacks with a minimum of twenty-five (25) feet.
 - (4) **Living Quarters.** Living quarters should be separate from the commercial business with a permanent wall or door. Living quarters must have a separate outside entrance.
- (d) **Permitted Conditional Uses.**
- (1) Storage facilities.

Sec. 13-1-24 Industrial District (I).

- (a) **Purpose.** The Industrial District is intended primarily for the conduct of manufacturing, assembling and fabrication. It is designed to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards. The uses permitted in this District make it most desirable that they be separated from residential uses.

- (b) **Principal Uses Permitted.** The following uses are permitted in this District:
- (1) Any use or structure permitted in the Commercial District except as hereinafter modified.
 - (2) Bottling of soft drinks or milk, or distribution stations.
 - (3) Building material sales and storage.
 - (4) Builder's or contractor's plan or storage yard.
 - (5) Lumber yard, including millwork.
 - (6) Open yard for storage and sale of feed or fuel.
 - (7) Automobile repair garage doing major repair, including tire retreading or recapping, battery service and repair.
 - (8) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries and food products.
 - (9) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared material: canvas, cellophane, cloth, fiber, glass, leather, paper, plastics, precious or semi-precious metals or stone, rubber, textiles, wood, yard, metal, cement, lime, gypsum, and plaster of Paris products.
 - (10) The manufacture or assembly of electrical appliances, electronic instruments and devices, phonographs, radio and television sets, electric and neon signs, refrigerators and stoves.
 - (11) Railroad freight stations, trucking or motor freight terminals.
 - (12) Operation of feed mill, including drying of grain and mixing of premade fertilizers.
- (c) **Prohibited Uses.** The following uses are specifically prohibited in the Industrial District:
- (1) Residential, educational or institutional uses, except a dwelling for a watchman or caretaker employed on the premises and members of his family.
 - (2) Uses in conflict with any laws of the State of Wisconsin or any ordinances of the Village of Muscoda governing nuisances. (3) Abattoirs, except for slaughter of poultry.

- (4) Acid manufacture.
 - (5) Distillation of bones.
 - (6) Explosives manufacture or storage.
 - (7) Fat rendering.
 - (8) Fertilizer manufacture.
 - (9) Garbage, rubbish, offal, or dead animal reduction or dumping.
 - (10) Glue manufacture.
 - (11) Junk yards.
 - (12) Petroleum refining.
 - (13) Smelting of tin, copper, zinc or iron ores.
 - (14) Stockyards.
 - (15) All activities related to frac sand mining, including but not limited to the mining, processing, treating, handling, storage, stockpiling, loading or transporting of sand.
- (d) **Restrictions.** In the Industrial District the height of buildings and minimum dimensions of yards shall be as follows:
- (1) **Side Yard.** For buildings or parts of buildings used for residential purposes, the side yard regulations of the Residence District shall apply; otherwise a side yard, if provided, shall be not less than twenty (20) feet in width. Except as otherwise provided, no side yard shall be less than one hundred (100) feet when abutting a residential district.
 - (2) **Setback.** Where parts of the frontage are designated on the District Map as Residence District and Industrial District, the setback regulations of the Residence District shall apply to the Industrial District; in no case shall the setback be less than twenty-five (25) feet.
 - (3) **Rear Yard.** There shall be a rear yard having a minimum depth of twenty (20) feet for a building two (2) stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased three (3) feet. See Sections 17.05, 17.10 and 17.12.

- (4) **Vision Clearance.** There shall be a vision clearance of not less than ten (10) feet extending from the corner each direction and a vertical clearance of not less than ten (10) feet high.
- (e) **Classification of Industrial Location.** All heavy industry as defined by the Standard Industrial Classification code shall be located in areas designated for heavy industry as defined by the Muscoda Plan Commission.
- (f) **Industrial Performance Standards.** The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that industrial land uses will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause urban blight. All future industrial development shall be required to meet these standards. Before any building permit is approved, the Building Inspector shall determine whether the proposed use will conform to the performance standards. The developer shall supply data necessary to demonstrate such conformance. Such data may include description of equipment used, hours of operation, method of refuse disposal, type and location of exterior storage, etc. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will not exceed the performance standards. Within the Industrial District, no structure or premises which is a permitted use shall fail to comply with the following performance standards:
- (1) **Air Pollution.** No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to endanger the health of persons, animals, vegetation or other forms of property; nor emit any liquid or solid particles in concentration exceeding three-tenths (0.3) grains per cubic foot of the conveying gas; nor emit any color visible smoke darker than No. 2 on the Ringelmann Chart described in the United States Bureau of Mines Information Circular 7718; nor emit more than ten (10) smoke units per hour per stack or chimney.
- (2) **Noise.** All noise shall be muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness. No activity in the Industrial District shall produce a sound level outside the particular district, nor in general shall any other activity produce a sound level outside its premise or property, that exceeds the following:

Cycles Per Second	Decibels
0-75	80
75-150	75
150-300	65

300-600	60
600-1000	55
1000-2000	50
2000-4000	45
Over 4000	40

- (3) **Odors.** No activity shall emit any odorous matter of such nature or quantity as to be unhealthful, or offensive or obnoxious outside the particular premise. In the case of complaint or dispute the guide for determining odor measurement and control thereof shall be Chapter 13, Air Pollution Abatement Manual 1960, or an amendment thereto, prepared by the Manufacturing Chemists' Association, Inc., Washington, D.C. which is hereby adopted by reference thereto for such purposes.
- (4) **Screening.** The outside storage of objectionable industrial materials shall require a wall, fence, or planting to screen and reduce the noise and dust for adjacent land uses.
- (5) **High Utility Consumption.** Industrial uses having high utility demands for electricity, water, and waste water treatment will make their utility needs known so the proper coordination can be made in the interest of providing reliable and efficient utility service to all Village of Muscodora customers.
- (6) **Vibration.** Any vibration discernible (beyond property line) to the human sense of feeling for three (3) minutes or more duration in any one (1) hour and any vibration producing an acceleration of more than one-tenth (0.1) grains or resulting in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting," on any structure.
- (7) **Glare or Heat.** Any operation producing intense glare or heat shall be performed within an enclosure so as not to be perceptible at the property line.
- (g) **Permitted Conditional Uses.** The following uses are permitted as conditional uses within this district:
- (1) Private storage sheds / garages.
 - (2) Wastewater Treatment Facility.

Sec. 13-1-25 Conservancy District (W).

- (a) **Purpose.** This District is intended to preserve the natural state of areas in the Village and to prevent any development within this District. No specific setbacks, lot sizes, or other dimensional standards are applicable to this District, but any development adjacent to a conservancy district must consider the intent of the conservancy district in its developmental plans which will be reviewed by the Plan Commission.
- (b) **Principal Uses Permitted.**
 - (1) Parks.
 - (2) Bicycle or hiking trails.
 - (3) Conservation areas.

Sec. 13-1-26 through Sec. 13-1-39 Reserved for Future Use.

Article C: Administration; Board of Appeals; Variances; Conditional Uses

Sec. 13-1-40 Administration.

- (a) **Administration.** The administration of this Chapter is vested in the following four (4) offices of the government of the Village of Muscoda: Muscoda Village Board, Muscoda Plan Commission, Zoning Administrator (who shall be the Public Works Director unless another person shall be appointed by the Village Board), and Board of Appeals.
- (b) **Village Board.** The Village Board shall discharge the following duties under this Chapter:
- (1) Appoint the Zoning Administrator whose responsibility will be to enforce the provisions of this Chapter;
 - (2) Appoint members to the Plan Commission Board of Appeals as provided for in this Chapter and the Wisconsin Statutes;
 - (3) Receive and decide upon all recommendations concerning amendments, supplements, changes, or repeal of the Zoning Ordinance submitted to them by the Plan Commission;
 - (4) Receive from the Plan Commission all recommendations on the effectiveness of this Zoning Code; and
 - (5) To decide all matters upon which it is required to pass under this Chapter.
- (c) **Plan Commission.** The Plan Commission shall discharge the following duties under this Chapter:

- (1) Hear all applications for amendments to this Chapter and report said findings and recommendations to the Village Board;
 - (2) On its own initiative, petition the Village Board requesting an amendment, supplement, change, or appeal of the Zoning Code provided that it has first held a public hearing thereon;
 - (3) Receive from the Zoning Administrator his recommendations as related to the effectiveness of this Chapter and report their conclusions and recommendations to the Village Board not less frequently than once a year; and
 - (4) To hear and decide all matters upon which it is required to pass under this Chapter, including conditional use permit applications.
- (d) The Zoning Administrator shall discharge the following duties under this Chapter:
- (1) Issue all zoning certificates and make and maintain records thereof;
 - (2) Issue all occupancy permits and make and maintain records thereof;
 - (3) Issue occupancy permit regulating the erection of buildings or structures and use of land for periods not to exceed ten (10) days for specific purposes;
 - (4) Conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this Chapter;
 - (5) Assign street numbers in accordance with the Village's current street numbering system;
 - (6) Perform all duties which are required of him under the terms of this Chapter;
 - (7) Maintain permanent and current records of this Chapter, including, but not limited to, amendments, conditional use permits, variances, appeals, and applications therefore;
 - (8) Provide and maintain a public information service relative to all matters arising out of this Chapter;
 - (9) Forward to the Plan Commission all applications for amendments to this Chapter;
 - (10) Transmit to the Board of Appeals applications for appeals, variances, or other matters on which the Board of Appeals is required to pass under this Chapter; and
 - (11) Initiate, direct, and review from time to time a study of the provisions of the Chapter and make reports of his recommendations to the Plan Commission.

- (e) **Board of Appeals.** The Board of Appeals shall discharge the following duties under this Chapter:
- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator under this Chapter;
 - (2) To hear and pass upon the applications for variances from the terms provided in this Chapter in the manner prescribed and subject to the standards established herein;
 - (3) To interpret the provisions of this Chapter and the district map in the manner provided for herein; and
 - (4) To hear and decide all matters referred to it or upon which it is required to pass under this Chapter, as prescribed by the applicable provision of the Wisconsin Statutes.
- (f) **Board of Appeals Membership.** A Board of Appeals is hereby established, which shall consist of five (5) members. The terms of office of the members of the Board of Appeals and the manner of their appointment shall be as provided by Statute and Village ordinances.
- (g) **Board of Appeals Meetings and Rules.**
- (1) All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board of Appeals may determine. All hearings conducted by said Board shall be open to the public. The Board may deliberate on matters before it in a properly noticed and convened closed session. However, no vote or action may be taken in such closed session. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions. A copy of every rule and regulation, order, requirement, decision, or determination of the Board of Appeals shall be filed immediately in the office of the Zoning Administrator and shall be a public record. The Board shall adopt its own rules and procedures, not in conflict with this Chapter or with the applicable State Statutes, and select or appoint such officers as it deems necessary.

- (2) All decisions and findings of the Board of Appeals on appeals or applications for a variance, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

(h) **Building Permits.**

- (1) The Zoning Administrator and/or Building Inspector, with the aid of the Police Department, shall enforce the provisions of this Chapter.
- (2) No building shall hereafter be erected, moved or structurally altered until a building permit therefore shall have been applied for and issued. The replacement of roof, siding, window(s), finishing of interior surface(s), and installation of cabinetry in an existing building which do not involve a remodeling or structural alteration of an existing building are exempt from permit requirements.
- (3) All applications for a building permit, upon request of the Zoning Administrator and/or Building Inspector, shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine the provide for the enforcement of this Chapter.
- (4) All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereby shall be staked out on the ground before construction is started.
- (5) For any district where public sewer service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Ch. COMM 83/85, Wis. Adm. Code.
- (6) A fee shall be charged for each building permit pursuant to Title 15, Chapter 3 of this Code of Ordinances.
- (7) Anyone not complying with the provisions of Section 13-1-40(h) shall be assessed a penalty equal to double the amount of the permit fee established above, in addition to other applicable penalties.

Sec. 13-1-41 Certificate of Occupancy.

- (a) No vacant land shall be occupied or used and no building hereafter erected, altered or moved until a certificate of occupancy shall have been issued by the Zoning

Administrator. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this Chapter. Such permit shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this Chapter.

- (b) Under such rules and regulations as may be established by the Village Board, the Zoning Administrator may issue a temporary certificate of occupancy for part of a building.
- (c) Upon written request from the owner, the Zoning Administrator shall issue a certificate of occupancy for any building or premises existing at the time of the adoption of this Chapter, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

Sec. 13-1-42 Amendments.

- (a) **Amendments; Hearings.** The Village Board may from time to time on its own motion or on petition, after first submitting the proposal to the Plan Commission, amend, supplement, or change the district boundaries or the regulations herein or subsequently established after publication in the official paper of a Class 2 notice under Chapter 985, Wis. Stats. , of the proposed amendment, supplement or change and of hearing thereon, an opportunity to any person interested to be heard. At least ten (10) days t prior written notice shall be given to the Clerk of any municipality within one thousand (1 ,000) feet of the land affected by the proposed change.
- (b) **Protest.** In case of protest against such change duly signed and acknowledged by the owners of twenty percent (20%) or more either of the areas of land included in such amendment, supplement, or change, or by the owners of twenty percent (20%) or more of the area of land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the area of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Village Board.

Sec. 13-1-43 Variances.

- (a) **Authority.** The Board of Appeals after a public hearing may vary the regulations of this Chapter in harmony with its general purpose and intent only in the specific instances hereinafter set forth and only in accordance with the standards hereinafter prescribed.
- (b) **Initiation of Variances.** Variances may be requested by any person, firm, corporation, or government.
- (c) **Application for Variance.** An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information as the Board of

Appeals shall, by rule, prescribe from time to time along with a fee of Three Hundred Dollars (\$300.00).

- (d) **Hearing on Application.** The Board of Appeals shall hold a public hearing on each application for a variance at such time and place as shall be established by the Board of Appeals. A record of such proceedings shall be preserved in such a manner as the Board of Appeals shall by rule prescribe from time to time.
- (e) **Notice of Hearing.** Notice of the time and place of such public hearing shall be published at least once, not less than fifteen (15) days before the hearing, in a newspaper of general circulation in the Village of Muscoda. The published notice may be supplemented by such additional forms of notice as the Board of Appeals by rule may require.
- (f) **Standard for Variances.** The Board of Appeals shall not vary the regulations of this Chapter, as authorized in this Section unless there is evidence presented to it in each specific case that:
 - (1) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience or monetary consideration, if the strict letter of the regulations were to be carried out;
 - (2) The conditions upon which a petition for a variation is based are unique to the property for which the variance is sought, and are not applicable generally to other property within the same zoning classification;
 - (3) The purpose of the variance is not based exclusively upon desire to make money out of the property;
 - (4) The alleged difficulty or hardship is caused by this Chapter and has not been created by any persons presently having an interest in the property;
 - (5) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood; and
 - (7) The purpose of the variance shall not be to establish a use otherwise excluded from the particular district in which it is requested.

- (g) **Finding of Fact.** All decisions by the Board of Appeals on requests for variances must be supplemented with a written finding of fact stating the conformity or non-conformity, as the case may be, of their decision with the standards set forth in this Section.
- (h) **Granting a Variance.** The concurring vote of three (3) members of the Board of Appeals shall be necessary to grant a variance. No decision of the Board of Appeals granting a variance shall be valid for a period longer than twelve (12) months from the date of such decision unless the building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.
- (i) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the standards established in this Zoning Code.
- (j) **Authorized Variances.** Authorized variances from the regulations of this Chapter shall be granted by the Board of Appeals only in accordance with the standards established in Subsection (f) and may be granted only in the following instances and in no others:
 - (1) To permit any yard or setback line of less dimension than required by the applicable regulations;
 - (2) To permit any building or structure to exceed the height limitations imposed by the applicable regulations;
 - (3) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than seventy percent (70%) of the required area and width;
 - (4) To permit the same off-street parking facility to qualify as required facilities for two (2) or more uses provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
 - (5) To reduce the parking and loading requirements in any of the districts whenever the character or use of a building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely being granted for a convenience.

Sec. 13-1-44 Conditional Uses.

- (a) **Purpose.** The development and administration of this Chapter is based upon the division of the Village into zoning districts, within which districts the use of land and buildings

and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular locations. Such conditional uses fall into two (2) categories:

- (1) Uses publicly operated or traditionally affected with a public interest; and
 - (2) Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- (b) **Initiation of Conditional Use Procedure.** Any person holding a piece of land for life, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the conditional uses provided for in this Chapter in the Zoning District in which the land is located.
- (c) **Application for Conditional Use Permit.** An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form as he/she shall prescribe. The application shall be accompanied by such plans and/or data prescribed by the Plan Commission and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will, on review, conform to the standards set forth in Subsection (f) hereinafter. Such application shall be forwarded from the Zoning Administrator to the Plan Commission with a request for a public hearing and report relative thereto. The application shall include a fee of Three Hundred Dollars (\$300.00).
- (d) **Hearing on Application.** Upon receipt in proper form of the application and statement referred to in Subsection (c) above, the Plan Commission shall hold at least one (1) public hearing on the proposed conditional use.
- (e) **Notice of Hearing.** Notice of time and place of such hearing shall be published not less than fifteen (15) days preceding said hearing and at least once in one (1) or more newspapers of general circulation in the Village of Muscoda. Supplemental or additional notices may be published or distributed as the Plan Commission may, by rule, prescribe from time to time.
- (f) **Standards.** No conditional use shall be granted by the Plan Commission unless such Commission shall find:

- (1) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
 - (2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
 - (4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
 - (6) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Plan Commission.
- (g) **Conditions and Guarantees.** Prior to the granting of any Conditional Use Permit, the Plan Commission shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Subsection (f) above. In all cases in which Conditional Use Permits are granted, the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- (h) **Effect of Denial of a Conditional Use Permit.** No application for a Conditional Use Permit that has been denied wholly or in part by the Plan Commission shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Administrator.
- (i) **Revocation of a Conditional Use Permit.** In any case where a conditional use has not been established within one (1) year after the date of granting permit thereof, then without further action of the Plan Commission the permit or authorization shall be null and void. In any case where a conditional use is discontinued for one (1) consecutive year after the date of granting a permit thereof, then without further action of the Plan Commission the permit or authorization shall be null and void unless another permit is

granted. In any case where a conditional use is established in violation of the terms and conditions of the conditional use permit, the Plan Commission, upon a complaint being filed or upon its own motion and upon notice and hearing, may revoke the conditional use permit for failure to comply with such terms and conditions. Continuation of a conditional use after revocation of the conditional use permit is a public nuisance and a violation of the Zoning Code of the Village. Nothing in this Section shall prohibit the Plan Commission from reviewing existing conditional uses and permits from time to time for the purpose of ensuring continuing compliance with this Chapter.

Sec. 13-1-45 Re-zonings.

The procedure for changing zoning district boundaries (rezoning) shall be as follows:

- (a) The Plan Commission, Village Board, or property owner may initiate a rezoning. Persons wishing to initiate a rezoning of property shall make application on forms provided by the Village Clerk. The form shall be accompanied by a fee established by the Village Board, to be used for the costs of processing the application. The application shall be filed with the Village Clerk. All applications for amendments changing zoning boundaries which are initiated by the petition of the owners of property shall be filed in the office of the Village Clerk and shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within three hundred (300) feet of the boundaries of the property proposed for rezoning, together with the names and addresses of the owners of the lands in such area as the same appear on the records of the Register of Deeds of Grant County.
- (b) Within sixty (60) days after the date of receipt of the petition from the Village Clerk, the Plan Commission shall make a written report to the Village Board stating its findings and recommendations.
- (c)
 - (1) The Village Board shall hold a hearing within thirty (30) days after the receipt of the report and the recommendations from the Plan Commission. If the Plan Commission fails to make a report within sixty (60) days after receipt of the application, then the Village Board shall hold a public hearing within thirty (30) days after the expiration of the said sixty (60) day period. Failure to receive a report from the Plan Commission shall not invalidate the proceedings or actions of the Village Board. The Village Board shall give a Class 2 notice of the place of such hearing published in the designated legal newspaper, and such notice shall contain a description of the land and the proposed change in zoning.
 - (2) At least ten (10) days before the hearing the Village Board shall order the Clerk-Treasurer to mail an identical notice to the owner and to each of the property owners within three hundred (300) feet of the outside boundaries of the land proposed to be rezoned; also to the clerk of any municipality within one thousand (1,000) feet of the area to be rezoned. Failure to mail the notice,

provided it is unintentional, or failure of the property owners to receive the notice, shall not invalidate the proceedings. At the time of hearing the Village Board may take final action upon application or it may continue the hearing from time-to-time for further investigation and hearing. The Village Board may also request further information and report from the Plan Commission.

- (d) The Village Board shall not rezone any land in any zoning district or make any other proposed amendment to this Chapter without having first referred it to the Plan Commission for their consideration and recommendation. The protest rule under Section 13-1-42 applies here also. A rezoning constitutes an amendment to the Chapter.
- (e) Rezoning applications may be denied by motion of the Village Board and such motion shall constitute a finding and determination that the proposed rezoning is not in the best interest for the physical development of the Village of Muscoda. No application which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of said order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the Plan Commission.

Sec 13-1-46 Appeals.

- (a) The Board of Appeals shall determine, in harmony with the general purpose of this Chapter and the Comprehensive Development Plan, by resolution, all Appeals from any order, requirement, permit or decision made by the Building Inspector as to the location of the boundary of a zoning district as shown on the Zoning Map.
- (b) At any time within ninety (90) days after the decision of the Building Inspector under the provision of this Chapter, except in connection with prosecutions for violations thereof, the applicant or other person or officers of the Village Board affected thereby may appeal to the Board of Appeals by filing a written notice stating the action appealed from and stating the specific grounds upon which the appeal is made.
- (c) The Board of Appeals may conduct such hearing as it may deem advisable and shall prescribe what notice, if any, shall be given of such hearings.
- (d) The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter or to effect any valuation in this Chapter.

Sec. 13-1-47 through Sec. 13-1-59 Reserved for Future Use.

Article D: General Provisions

Sec. 13-1-60 Compliance Required.

The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.

Sec. 13-1-61 Lot Area; Population; Yards.

- (a) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this Chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- (b) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space required for another building.

Sec. 13-1-62 One Main Building Per Lot

Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot.

Sec. 13-1-63 Nonconforming Uses.

- (a) The existing lawful use of a building or premises at the time of the enactment of this Chapter or any amendment thereto may be continued although such use does not conform with the provisions of this Chapter for the district in which it is located, but such nonconforming use shall not be extended.
- (b) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.
- (c) If a nonconforming use of a building or premises is discontinued for twelve (12) months, any future use of the building or premises shall conform to the regulations for the district in which it is located.
- (d) When a building containing a nonconforming use is damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty percent (50%) of its fair market value, it shall not be restored except in conformity with the regulations of the district in which it is located. The total structural repairs or alterations in any nonconforming use shall not during its life exceed fifty percent (50%) of the fair market value of the building at the time of its becoming a nonconforming use unless permanently changed to a conforming use.

Sec. 13-1-64 Loading Space in Alleys.

In any Commercial or Industrial District, whenever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided where feasible on the lot in connection with any commercial or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.

Sec. 13-1-65 Parking Space for Places of Public Gatherings.

All theaters, arenas, auditoriums, churches or other places of public gathering hereafter erected shall provide adequate off-street parking.

Sec. 13-1-66 Yards Abutting Boundary Lines.

Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

Sec. 13-1-67 Development Plans.

When a housing project consisting of a group of two (2) or more buildings providing at least twelve (12) dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this Chapter to the individual building units, the Plan Commission may approve a development plan provided it complies with the regulations of this Chapter as applied to the whole plat.

Sec. 13-1-68 Height and Area Exceptions.

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding forty-five (45) feet nor three (3) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, microwave radio relay structures, telephone, telegraph and power transmission poles and lines, and necessary mechanical appurtenances are hereby exempted from the height regulations of this Chapter and may be erected in accordance with other regulations or ordinances of the Village.
- (c) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.
- (d) Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
- (e) Where a lot has an area less than the minimum number of square feet per dwelling unit required for the district in which it is located and was of record as such at the time of the passage of this Chapter, such lot may be occupied by one (1) family.
- (f) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet provided they be so located as not to obstruct light and ventilation.

Sec. 13-1-69 Community and Other Living Arrangements.

The location and establishment of community and other living arrangements shall be in accordance with the criteria specified in Sec. 62.23(7)(i), Wis. Stats.; where the term "special zoning permission" is used in said statute, the procedure designated in the Village is determined to be Conditional Use Permit procedure or the variance procedure set forth in this Chapter.

Sec. 13-1-70 Penalties.

Any person, firm or of any order, rule or regulation made thereunder, who fails to comply with the provisions of this Chapter shall upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) and cost of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof not exceeding thirty (30) days. Each and every day during which such illegal erection, construction or reconstruction continues shall be deemed a separate offense.

Sec. 13-1-71 Fences and Hedges

- (a) **Definitions.** The following definitions shall be applicable herein:
- (1) **Decorative Fence.** A fence not exceeding a height of thirty-six (36) inches from ground level, made of material other than wire, metal, chain or poured concrete, and constructed in a substantially open pattern (such as weave or board-and-space pattern) and not solid pattern (such as block, concrete, or privacy pattern).
 - (2) **Fence.** Any enclosure or barrier, solid or otherwise, made of wood, iron, stone, or other material, as around or along a yard, walkway, field, or other area, and shall include "decorative fence".
 - (3) **Hedge.** A row of bushes or small trees planted close together which may form a barrier, enclosure, or boundary.
 - (4) **Picket Fence.** A fence having a pointed post, stake, pale or peg placed vertically with the point or sharp part pointing upward to form a part of the fence.
 - (5) **Retaining Wall.** A solid barrier of any material constructed to hold a mass of earth. A retaining wall shall be considered a fence for purposes of this Section.
- (b) **Responsibility of Owner.** Any person erecting a fence shall do so on his/her own property. The responsibility for establishing a property line shall rest with the property owner erecting the fence.
- (c) **Fence Permit Required.** No person shall erect a fence in the Village of Muscoda unless a permit is first obtained from the Building Inspector by the property owner or his/her

agent. A Twenty-five Dollar (\$25.00) permit fee shall be paid upon application for the permit. Failure to obtain said permit will permit the removal of the fence upon demand of the Building Inspector.

(d) **Fence Setback in Residential Zoned Districts.**

- (1) No fence portion of a fence shall be constructed within the front setback area of a building in a residentially zoned district except as follows:
 - a. A fence can be constructed in the front setback area if the fence is no higher than three (3) feet and has a solid pattern;
 - b. Or be no higher than four (4) feet and have an open web, weave or board-and space pattern.
- (2) Fences shall not extend into the front setback area.
- (3) All fences shall be set back inside the lot line a minimum of three (3) feet.

(e) **Fences in All Districts.**

- (1) No solid fence or segment of a fence more than three (3) feet high is allowed within the vision clearance required for corner lots abutting a street or alley.
 - (2) No fence or segment of a fence shall be constructed nearer than four (4) feet to any alley line.
 - (3) Unless otherwise provided herein, no fence shall be constructed with any point higher than six (6) feet above ground level; provided, however, that fences in industrial zoned areas shall not be higher than ten (10) feet above ground level, excluding devices for holding barbed wire.
 - (4) No fence shall be constructed which is a picket fence or which is of otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire; provided, however, that barbed wire may be used in industrial zoned areas if the devices securing the barbed wire to the fence are eight (8) feet above the ground or higher and project toward the fence property and away from any public area.
 - (5) All fences shall be maintained and kept safe and in a state of good repair; the finished side or decorative side of a fence shall face the adjoining property.
- (f) **Hedges.** The height and setback for hedges shall be the same as outlined for fences in Subsections (c) and (d) hereof; provided, however, hedges three (3) feet in height or less, from sidewalk level, may be kept in the front setback area, and provided further that no

hedge shall be permitted in the tree lawn area or, where no tree lawn area exists, within four (4) feet of any street or alley. Hedges shall be trimmed and maintained.

- (g) **Fences to Be Repaired.** All fences shall be maintained and kept safe and in a state of good repair; the finished or decorative side of a fence shall face the adjoining property.
- (h) **Temporary Fences.** Fences erected for the protection of planting or to warn of a construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences described herein.
- (i) **Existing Fences.** Fences in existence upon the adoption of this Section are legal nonconforming uses. Any modification or alteration to an existing fence will, however, require a permit as set forth in Subsection (c) above and shall also need to comply with requirements of this Section.

Sec. 13-1-72 Combination of Lots.

In any zoning district, the owner of two (2) or more adjacent lots which, if combined, would meet the minimum lot size standards and setback standards for the zoning district in which the lots are located or the more restrictive lot size and setback standards if the lots are located in different zoning districts, shall not be required to replat the lots and may disregard the interior lot line between the lots and elect to treat the lots as one (1) lot under the following conditions:

- (a) The lots shall be treated as one (1) lot for all purposes.
- (b) The exterior lot lines of the platted lots shall be used to determine the limits of the combined lots.
- (c) If the lots are located in two (2) zoning districts, the more restrictive zoning district standards shall apply to the entire combined lot.
- (d) The Village must be notified prior to any construction that the owner is electing to treat the lots as one. Such an election, once made, is irrevocable.

Sec. 13-1-73 Recreational Vehicle Occupancy.

No person may occupy any recreational vehicle as defined under Sec. 340.01 (48r), Wis. Stats., for more than ten (10) consecutive days or more than thirty (30) days total in a calendar year within any zoning district in the Village of Muscoda. Any person seeking relief from the requirements of this Section may apply for a permit from the Police Department.

Sec. 13-1-74 through Sec. 13-1-79 Reserved for Future Use.

Article E: Definitions

Sec. 13-1-80 Definitions.

- (a) Words used in the present tense include the future, the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the words structure; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state and Village Building Codes. For the purposes of this Chapter, certain words and terms are defined as follows:
- (1) **Accessory Building.** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. When an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard requirements of the main building shall be applied to the accessory building.

- (2) **Alley.** A street or thoroughfare less than twenty-one (21) feet wide and affording only secondary access to abutting property.
- (3) **Apartment House.** See "Multiple Dwelling."
- (4) **Basement.** A basement is that level below the first or ground floor level with its entire floor below exit discharge grade.
- (5) **Boarding House.** A building other than a hotel where meals, or lodging and meals, are furnished for compensation for three (3) or more persons not members of a family.
- (6) **Building.** Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.
- (7) **Building Area.** Total ground coverage in square feet of all buildings and structures including garages, carports, and other attached or accessory structures.
- (8) **Building, Height Of.** The vertical distance from the average elevation of the finished grade at the building line to the highest point of a flat roof, or the deck line of a mansard roof, or the average height of the highest gable or gambrel, hop or pitch roof.
- (9) **Campgrounds.** Any privately or municipally owned parcel or tract of land accessible by automobile or other engine-driven vehicle designed, maintained, intended or used for the purpose of supplying accommodations for overnight use by seasonally used recreational vehicles, open to the public and designated as a developed camp area and set aside for free or paying camping purposes.
- (10) **Conditional Use.** A use of land which, while appropriate for including within a given district, possesses a high likelihood of creating problems with regard to nearby parcels of land or the occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created. Use of land allowable only after issuance of special permit by the Village Plan Commission.
- (11) **Dwelling, One Family.** A detached building designed for one (1) dwelling unit or occupied exclusively by one (1) family [one (1) dwelling unit].
- (12) **Dwelling, Two Family.** A detached or semi-detached building designed for two (2) dwelling units and occupied exclusively by two (2) families [two (2) dwelling units].

- (13) **Dwelling, Multiple.** A building or portion thereof designed for and occupied by more than two (2) families including tenement houses, row houses, apartment houses and apartment hotels.
- (14) **Dwelling Unit.** A dwelling unit consists of one or more rooms which are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete single kitchen facilities, permanently installed, shall always be included with each dwelling unit.
- (15) **Family.** The body of persons who live together in a one (1) dwelling unit as a single housekeeping entity. There is no limitation on numbers of relations by blood, marriage or adoption.
- (16) **Floodplain.** The land adjacent to a body of water which has been or may be hereafter covered by flood water including but not limited to the regional flood.
- (17) **Floodway.** The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood or flood flows of any river or stream, including but not limited to flood flows associated with the regional flood.
- (18) **Floor Area.** The floor area of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior face of the exterior walls, or from the center line of walls separating the building.
- (19) **Frontage.** All the property abutting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street. The smallest dimension of a lot abutting a public street measured along the street line.
- (20) **Garage, Private.** An accessory building or space for the storage of private motor-driven vehicles.
- (21) **Garage, Public.** Any building or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.
- (22) **Garage, Storage.** Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced repaired, hired or sold. No commercial motor vehicle exceeding two (2) tons capacity shall be stored in any storage garage.

- (23) **Home Occupation.** A gainful occupation conducted by members of the immediate family residing on the premises; conducted within their dwelling and not in an accessory building, provided that no article is sold or offered for sale on the premises except such as is produced for such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that such occupation shall not require internal or external alterations, or involve construction features not customary in a dwelling, that not more than twenty-five percent (25%) of the floor area of one (1) story of the dwelling is devoted to such home occupation, that no sign other than one (1) unlighted name plate not more than one (1) foot square is installed and that no person other than a member of the immediate family living on the premises is employed.
- (24) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (25) **Light Industry.** The manufacture of small or lightweight articles, including the manufacture of items that use moderate amounts of partially processed materials to produce items that are of relatively high value per unit weight.
- (26) **Lodging House.** A building other than a hotel where lodging only is provided for compensation for no more than three (3) persons not members of the family.
- (27) **Lot.** A parcel of land having a width and depth sufficient to provide the space necessary for one (1) main building and its accessory building, together with the open spaces required by this Chapter and abutting on a public street or officially approved place.
- (28) **Lot, Corner.** A lot abutting on two (2) or more streets at their intersection, provided that the interior angle of such intersection is less than one hundred thirty-five degrees (135 degrees).
- (29) **Lot, Depth of.** The mean horizontal distance between the front and rear lot lines.
- (30) **Lot, Interior.** A lot other than a corner lot.
- (31) **Lot, Through.** An interior lot having frontage on two (2) nonintersecting streets.
- (32) **Lot Lines.** The lines bounding a lot as defined herein.
- (33) **Manufactured Home.** A structure, certified and labeled as a manufactured home under 42 U.S.C. Secs. 5401 to 5426, as the same may be amended from time to

time, with a valid legal title, which, when placed on the site, is properly connected to the required utilities and is without wheels and set upon some other support.

- (34) **Mobile Home.** Any vehicle, house car, camp car, trailer, coach, or any portable or mobile vehicle consisting of one (1) dwelling unit constructed with wheels, or designed to be so constructed (whether or not such wheels have been removed) so that it can be towed on its own chassis which is used or is designed for residential living, sleeping or other dwelling purposes, other than a manufactured home as defined in this Code. A mobile home cannot be constructed as a "Single Family Residence."
- (35) **Motel.** A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.
- (36) **Nonconforming Use.** A building or premises lawfully used or occupied at the time of the passage of this Chapter, or amendments thereto, which use or occupancy does not conform to the regulations of this Chapter or any amendments thereto.
- (37) **Professional Office.** The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than twenty-five percent (25%) of the floor area of only one (1) story of a dwelling unit shall be occupied by such office and only one (1) unlighted name plate, not exceeding one (1) square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.
- (38) **Public Airport.** Any airport which complies with the definition contained in Sec. 114.013(3), (6) or (9), Wis. Stats. , or any airport which serves or offers to serve common carriers engaged in air transport.
- (39) **Roadside Stand.** A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than three hundred (300) square feet in ground area.
- (40) **Setback.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps.
- (41) **Sign.** A structure or device which is intended for advertising display, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

- (42) **Storage Facility.** A building or buildings constructed and intended for use as a place where personal property is kept, protected from the elements and from unauthorized access. Storage facility includes a facility consisting of individual self-contained storage units or spaces leased to individuals, organizations, or businesses for storage of personal or business property, and a facility providing storage and distribution of merchandise and bulk goods, typically involving heavy truck traffic and freight rail traffic.
- (43) **Street.** All property dedicated or intended for public or private street purposes or subject to public easements therefor and twenty-one (21) feet or more in width.
- (44) **Story.** That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.
- (45) **Story, Half.** The space under any roof except a flat roof which, if occupied for residential purposes, shall be counted as a full story.
- (46) **Street Line.** A dividing line between a lot, tract or parcel of land and a contiguous street.
- (47) **Structure.** Anything constructed, erected or moved, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.
- (48) **Structural Alterations.** Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior wall.
- (49) **Temporary Structure.** A movable structure not designed for human occupancy nor for the protection of goods or articles of movable property and not forming an enclosure.
- (50) **Tourist Camp.** A tract or parcel of land, with or without buildings, or other equipment, on which one (1) or more camp cabins are located, or where temporary accommodations are provided for two (2) or more automobile trailers or motor homes, open to the public free or for a fee.
- (51) **Variance.** A departure from the terms of the zoning ordinance where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner, and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.

- (52) **Vision Clearance.** An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.
- (53) **Yard.** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.
- (54) **Yard, Front.** A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.
- (55) **Yard, Rear.** A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building, excluding uncovered steps.
- (56) **Yard, Side.** A yard extending from the front yard to the rear yard, being the minimum horizontal distance between the building and the side lot line.