

**GENERAL CODE OF
ORDINANCES
FOR THE
VILLAGE OF LOMIRA
DODGE COUNTY,
WISCONSIN**

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LEGAL STATUS AND ORGANIZATION

- 1.01 LEGAL STATUS. The Village of Lomira is a body corporate and politic, organized under §66.01, Wis. Stats., with those powers granted by law and shall be designated in all actions and proceedings by its name, “Village of Lomira, Dodge County, Wisconsin.”
- 1.02 DEFINITIONS. (Ren. and recr. fr. §1.04.010) The following words and phrases whenever used in the ordinances of the Village of Lomira, Wisconsin, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:
- 1.02(1) “Board” means the Village Board of the Village of Lomira. “All its members” or “all Board members” means the total number of Board members holding office.
- 1.02(2) “Clerk” or “Treasurer” unless specifically spelled out to the contrary means the Village of Lomira “Clerk/Treasurer.”
- 1.02(3) “City” and “Village” each mean the Village of Lomira, Wisconsin, or the area within the territorial limits of the Village of Lomira, Wisconsin, and such territory outside of the Village over which the Village has jurisdiction or control by virtue of any constitutional or statutory provision.
- 1.02(4) “County” means the county of Dodge.
- 1.02(5) “Law” denotes applicable federal law, the Constitution and Statutes of the State of Wisconsin, the ordinances of the Village of Lomira, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- 1.02(6) “May” is permissive.
- 1.02(7) “Month” means a calendar month.
- 1.02(8) “Must” and “shall” are each mandatory.
- 1.02(9) “Oath” includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”
- 1.02(10) “Owner” applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.
- 1.02(11) “Person” includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- 1.02(12) “Personal property” includes money, goods, chattels, things in action and evidences of debt.
- 1.02(13) “Preceding” and “following” means next before and next after, respectively.

- 1.02(14) “Property” includes real and personal property. “Real property” includes lands, tenements and hereditaments.
- 1.02(15) “Sidewalk” means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- 1.02(16) “State” means the State of Wisconsin.
- 1.02(17) “Street” includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this Village which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
- 1.02(18) “Tenant” and “occupant” applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.
- 1.02(19) “Written” includes printed, typewritten, mimeographed, multi graphed, or otherwise reproduced in permanent visible form.
- 1.02(20) “Year” means a calendar year.
- 1.03 ELECTED OFFICIALS. (Cr. During recodification 1999)
- 1.03(1) ENUMERATED. Elected Officials of the Village shall be:
1.03(a) Trustees.
1.03(b) Village Board President.
- 1.03(2) OFFICES. The offices of all elected Village officials shall be in the Lomira Municipal Building.
- 1.03(3) TRUSTEES; NUMBER, TERMS.
1.03(3)(a) The Village shall have 6 trustees, except as provided otherwise in sub. (b), whose term of office shall be 2 years, 3 of whom shall be elected each year.
1.03(3)(b) The Village may by ordinance change the number of trustees, but such change in the number of trustees shall not affect the term of office of trustees elected prior to the adoption of said ordinance authorizing such change.

1.03(3)(c) Except as otherwise provided by law, the term of office of all Village officers is 2 years. Persons serving in appointive offices shall serve until their respective successors are appointed and qualify. If any officer is absent or temporarily incapacitated for any cause, the Board may appoint some person to discharge the officer’s duties until the officer returns or until such disability is removed.

1.03(3)(d) The regular term of office of Village President and Trustees shall commence on the 3rd Tuesday of April in the year of their election. The regular terms of other officers shall commence on May 1 succeeding their election unless otherwise provided by ordinance or statute.
- 1.03(4) VILLAGE PRESIDENT.
1.03(4)(a) A Trustee May Be Appointed President. A Village Trustee shall be eligible for appointment as the Village President to fill an unexpired term.

1.03(4)(b) President is Trustee and Presiding Officer. The President shall be, by virtue of the office, a trustee and shall preside at all meetings of the Village Board and further shall have a vote as a Trustee.

1.03(5) REMOVAL OF ELECTED OFFICIALS. Elected Officials may be removed as provided in §17.13, Wis. Stats., or by the judge of the Circuit Court wherein the Village is situated, for cause pursuant to §17.13 and §17.16, Wis. Stats.

1.04 APPOINTED VILLAGE OFFICIALS. (Cr. during recodification 1999) The Village Board may from time to time create positions which may be designated as “Appointed Village Officials.” Any such position along with the manner of selection or appointment, tenure, qualifications, authority, powers and duties as established by the Village Board shall be placed on file in the Office of the Village Clerk/Treasurer with the same being adopted by reference as if fully set forth herein.

1.04(1) VILLAGE CLERK/TREASURER.

1.04(1)(a) Exemption from State Statutes. The Village elects not to be governed by those portions of §61.19, Wis. Stats., relating to the separate offices of the clerk and treasurer which conflict with the ordinance codified in this Chapter. Further, the Village elects to be governed by §61.195, Wis. Stats., relating to the method of selection and tenure of Village officers. (Rn.fr. §2.80.010)

1.04(1)(b) Treasurers Office Combined With Village Clerk. The separate office of the Village Treasurer shall be dispensed with and the office shall be totally consolidated with the office of the Village Clerk. (Rn. Fr. §2.08.020)

1.04(1)(c) Village Clerk to Assume Treasurer’s Duties. The Village Clerk shall, in addition to the duties of that office (See §61.25, Wis. Stats.), assume also the duties and obligations formerly carried on by the Village Clerk/Treasurer (See §61.26, Wis. Stats.). (Rn. Fr. §2.80.030)

1.04(1)(d) Appointment. Instead of being elected, the Clerk/Treasurer of the Village shall be appointed by a two-thirds (2/3) vote of the members-elect of the Village Board. (Rn. Fr. §2.80.040)

1.04(1)(e) Term of Office. The Clerk/Treasurer of the Village shall hold office for an indefinite term, subject to removal as provided by law. (Rn. Fr. §2.80.050)

1.04(1)(f) Clerk/Treasurer to Notify Officers-elect; Oath of Office. (Cr. during codification 1999) Within 5 days after the election or appointment of any Village officer the Village Clerk/Treasurer shall notify the person so selected thereof, and every person elected or appointed to any office named in §61.19, Wis. Stats., shall within 5 days after notice of election or appointment take and file the official oath.

1.04(1)(g) Election Day Shifts. Provides for the selection of 2 (or more) sets of officials to work at different times on each Election Day as follows:

A. There shall be 2 shifts for election workers on all Election Days. The first shift shall commence at 6:30am and end at 1:30pm. The second shift shall commence at 1:30pm and end with the completion of all required Election Day duties that follow the closure of the polls

B. The municipal Clerk may establish different working hours for different officials assigned to the same polling place. Alternate officials shall also be appointed in a number sufficient to maintain adequate staffing of polling places. (Ord. #274 2/13/2013)

1.04(2) DIRECTOR OF PUBLIC WORKS.

1.04(2)(a) Position Created. There is created by this subsection the Office of Village Director of Public Works. (Rn. Fr. §2.10.010)

1.04(2)(b) Appointment. The Director of Public Works shall be appointed by a two-thirds (2/3) majority vote of the members-elect of the Village Board. (Ren. Fr. §2.10.020)

1.04(2)(c) Duties and Responsibilities. The Director of Public Works shall be responsible for supervising the operation, management and maintenance of public services and facilities in the Village, including but not limited to: Public Transportation Facilities; Publicly-owned Recreation Facilities; Water Utility; and, Sewer Utility. The Director of Public Works, or his/her appointed deputies shall perform the duties of Village Building Inspector, Utility Superintendent and Weed Commissioner. The Director of Public Works shall directly supervise all employees assigned to the Department under his/her authority. He/she shall also serve as advisor to the Village Board in matters relating to the construction of public facilities and management thereof. (Rn. Fr. §2.10.130)

1.04(2)(d) Term. The Director of Public Works shall hold office for an indefinite term, subject to removal as provided by law. (Rn. Fr. §2.10.130)

1.04(3) CHIEF OF POLICE.

1.04(3)(a) Constable, Marshal Positions Abolished. Pursuant to §§61.195, 61.197 and 66.01, Wis. Stats., the Village of elects not to be governed by those portions of §§61.19 and 61.23, Wis. Stats., relating to the selection and tenure of constable and marshal and this subsection abolishes the offices of constable and marshal. (Rn. fr. §2.16.010)

1.04(3)(b) Position Created, Appointment. There is created by this subsection the office of Village Chief of Police, who shall be appointed by the Village President subject to confirmation by a majority vote of all other members of the Village Board. (Rn. fr. §2.16.020)

1.04(3)(c) Term and Removal. Subject to removal as provided by law, the Village Chief of Police shall serve for a term of five (5) years or until such time as a successor has been appointed and deemed qualified. (Rn. fr. §2.16.101)

1.04(3)(d) Powers and Duties. The Village Chief of Police shall have the powers, privileges and duties of the Village marshal and constable under §§61.28 and 61.29 Wis. Stats., and shall perform such other duties as may from time to time be required by the Village Board. (Rn. fr. §2.16.040)

1.04(3)(e) Application of Provisions. This subsection shall not in any way affect the right of any person whose term of office has begun but has not expired on the effective date of the ordinance codified in this Chapter to complete his/her term of office. (Rn. fr. §2.16.050)

1.04(4) VILLAGE ASSESSOR.

1.04(4)(a) Exemption from Designated State Statute. Pursuant to §§61.195, 613.197 and 66.01, Wis. Stats., the Village elects not to be governed by those portions of §§61.19 and 61.23 Wis. Stats., which relate to the selection and tenure of the Village Assessor and which are in conflict with this Chapter. (Rn. fr. §2.24.010)

1.04(4)(b) Appointment. Following the effective date of this subsection, instead of being elected, the Village Assessor shall be appointed by a vote of two-thirds (2/3) of the members-elect of the Village Board. (Rn. and recr. fr. §.2.24.020)

1.04(4)(c) Term and Removal. The Assessor shall hold office for an indefinite term, subject to removal as provided by law.

1.04(4)(d) Qualifications, Duties and Responsibilities. (Rn. and recr. fr. §2.24.020) 1. No person may assume the Office of Village Assessor unless certified by the Wisconsin Department of Revenue under §73.09, Wis. Stats., as qualified to perform the functions of the office of assessor.

1.04(4)(d)2. The Assessor shall return the assessment roll to the Village Clerk/Treasurer at the same time and in the same manner in which town assessors are required to do.

1.04(4)(d)3. The Assessor's compensation shall be fixed by the Village Board.

1.04(4)(d)4. The Assessor shall take and file the official oath and shall begin under §70.10, Wis. Stats., to make an assessment of all the property in the Village liable to taxation, as prescribed by law.

1.04(4)(e) Application of Provisions. This subsection shall not in any way affect the right of any person whose term of office has begun but which has not expired on the effective date of the ordinance codified in this subsection to complete his/her term of office. (Ren. fr. §2.24.040)

1.04(4)(f) Confidentiality of Information About Income and Expenses. (ord. 235, 2000) 1. This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

1.04(4)(f)2. Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to §70.47(7) (af) Wis. Stats., or any successor statute thereto, then, such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under §70.47(7)(af), unless a court determines that it is inaccurate, is per §70.47(7)(af), not subject to the right of inspection and copying under §17.35(1), Wis. Stats.

1.04(4)(f)3. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

1.04(5) FIRE CHIEF. See §§19.07 and 20.08, this Code.

- 1.04(6) VILLAGE OF FORESTER/WEED COMMISSIONER. In accordance with §66.97, Wis. Stats., the Village Forester/Weed Commissioner shall be appointed by the Village President, subject to confirmation of the Village Board, and shall receive such salary as may be authorized by the Board. The power and duties of the Village Forester as set forth in §8.25 of this Code are combined with those of the office of Weed Commissioner as provided in §66.98(1), Wis. Stats. (Recr. and Rn. fr. Ord. 89 §1, 1963)
- 1.04(7) BUILDING INSPECTOR. See §15.08(6), this Code.
- 1.04(8) UTILITY SUPERINTENDENT. See §13.06, this Code.
- 1.04(9) WATER SUPERINTENDENT. See §13.75, this Code.
- 1.04(10) UTILITY CLERK. See §13.07, this Code.
- 1.04(11) FIRE MARSHALL. The Village of Lomira hereby creates the position of Fire Marshall. This person shall be the Police Chief, or his designee. The duties of the position shall be to enforce all fire codes, statutes, and to be in charge of all fire investigations that are referred to him by the Fire Chief.
- 1.05 REMOVAL OF APPOINTED OFFICIALS. (Cr. during recodification 1999) Appointed Officials may be removed as provided in §17.13(1), Wis. Stats., and for cause as provided in §17.16(3), Wis. Stats.
- 1.06 VACANCIES. (Cr. during recodification 1999) (1) OCCURRING. Vacancies in elective and appointive offices are caused as provided by §§17.03, 17.03(5) and §§17.17(3) and (5), Wis. Stats.
- 1.06(2) FILLED. Vacancies in elected and appointive offices shall be filled as provided in §17.25, Wis. Stats.
- 1.07 SALARIES. (1) GENERAL AUTHORITY. The salaries of all Village elected officials shall be established in accordance with §61.32 Wis. Stats., except the salaries for said elected officials shall not be changed during their terms of office. The salaries for appointive Village officials and employees shall be as is established from time to time by the Village Board. No officer receiving a salary from the Village shall be entitled to retain any portion of any fees collected by said officer for the performance of the duties of such officer in the absence of a specific law or ordinance to that effect. Rn. fr. §2.32.010 am. And recr. during codification 1999)
- 1.07(2) VILLAGE PRESIDENT. That the base salary for the Village President be set at \$500 per year and \$40 per meeting.
- 1.07(a) That the base salary for Village Trustees be set at \$250 per year and \$40 per meeting.
- 1.07(b) That the wage for Village Trustees attending a committee meeting shall be \$20 per meeting.

- 1.07(3) **EFFECTIVE DATE.** The base salary, per meeting fee and committee fee shall be applied to the newly elected Board members of the 1998 and 1999 Spring elections and be payable after April of 1999.
- 1.08 **RECEIPT OF GIFTS AND GRATUITIES.** (Cr. during recodification 1999) (1) **RESTRICTED.** No Village employee or official shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he is not authorized to receive from any person who:
- 1.08(1)(a) Has or is seeking to obtain contractual or other business or financial relationships with the Village or the Board; or
- 1.08(1)(b) Conducts operations or activities which are regulated by the Village or the Board; or
- 1.08(1)(c) Has interest which may be substantially affected by the Village or the Board.
- 1.08(2) **SOLICITATION PROHIBITED.** No Village employee or official shall solicit or in any way encourage gifts, donations or other things of value for any department or program unless the same shall have been approved by the Village Board in advance.
- 1.08(3) **PUBLIC POLICY.** The receipt of any gift, gratuity, or anything of value as denoted above is contrary to the public policy of the Village of Lomira.
- 1.08(4) **PENALTY.** The receipt of any gift, gratuity or other thing of value as denoted above is contrary to the public policy of the Village and is punishable as provided under §946.12, Wis. Stats., and under §25.04 of this Code.

VILLAGE BOARD; MEETINGS, POWERS AND RESPONSIBILITIES

- 1.09 **VILLAGE BOARD.** (Cr. during recodification 1999) (1) **COMPOSITION.** The Trustees of the Village shall constitute the Village Board which shall be designated as the “Village Board of Lomira”.
- 1.09(2) **ELECTION.** See §1.03, this Code.
- 1.09(3) **QUORUM.** A majority of the Village Board members-elect shall constitute a quorum, but a lesser number may adjourn from time to time. The Village President shall preside at all meetings when present.
- 1.09(4) **MEETINGS.** (a) Meetings of the Village Board may be held as provided in §61.32, Wis. Stats., subject to subch. V of Ch. 19, Wis. Stats. The Village President shall preside at all meetings when present. In the absence of the president the Board may select another trustee to preside.
- 1.09(4)(b) Meetings of the Village Board shall be open to the public and the Board shall keep a record of all its proceedings.
- 1.09(4)(c) The Board has power to preserve order at its meetings, compel attendance of trustees and punish nonattendance and it shall be judge of the election and qualification of its members.

1.09(4)(d) The President and Board of Trustees of the Village, whether operating under general or special law, may by a three-fourths vote of all the members of the Village Board determine that an annual salary be paid the President and Trustees. Salaries heretofore established shall so remain until changed by ordinance and shall not be increased or diminished during their terms of office. (Cr. during codification 1998)

1.09(4)(e) Regular meetings of the Village Board shall be held on the second and fourth Wednesday of each month at seven-thirty p.m. (7:30 P.M.) at the Lomira Municipal Building.

1.09(4)(f) Special Meetings may be called by any 2 trustees in writing, filed with the Village Clerk/Treasurer, who shall thereupon notify all the trustees of the time and place thereof in the manner and by the method directed in the bylaws. (Cr. during codification 1998)

1.10 POWERS AND DUTIES ENUMERATED. (Cr. during recodification 1999) (1) VILLAGE BOARD. The Village Board may exercise the powers provided in §66.23, Wis Stats. and, shall have and exercise the general powers and duties, as may be required, and as are provided in §61.34, Wis. Stats.

1.10(1)(a) Except as otherwise provided by law, the Village Board shall have the control and management of the Village property, finances, highways, streets, navigable waters, and the public service.

1.10(1)(b) The Village Board shall have power to act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment, and other necessary or convenient means.

1.10(1)(c) The Village Board may join with other villages or cities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees.

1.10(1)(d) The Village Board may acquire property, real or personal, within or outside the Village, for parks, libraries, recreation, beautification, streets, water systems, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas, and for any other public purpose.

1.10(1)(e) The Village Board may acquire real property within or contiguous to the Village, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and, may sell and convey such property. Condemnation shall be as provided by Ch. 32, Wis. Stats.

1.10(1)(f) The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

1.10(2) VILLAGE PRESIDENT. (Cr. during codification 1999) (a) The Village President shall sign all ordinances, rules, bylaws, regulations, commissions, licenses and permits adopted or authorized by the Village Board and all orders drawn on the treasury except as provided by §66.042, Wis. Stats..

1.10(2)(b) The President shall maintain peace and good order, see that Village ordinances are faithfully obeyed.

1.10(2)(c) The Village Board President shall also have and exercise those other powers and duties as are specifically provided for and enumerated under Wisconsin Statutes.

BOARDS, COMMITTEES, AND COMMISSIONS

1.11 BOARD OF REVIEW. (1) MEMBERSHIP. The Board of Review of the Village shall be composed of the Village President and the Trustees serving on the Village Board. (Ren. fr. §2.12.010)

1.11(2) CLERK/TREASURER AND ASSESSOR ARE EX OFFICIO. The Village Clerk/Treasurer and the Village Assessor shall attend all Board of Review sessions, but shall not have any voting powers. (Ren. fr. §2.12.020)

1.16 VILLAGE PLANNING AND ZONING COMMISSION. (1) CREATION. There is hereby created the “Village of Lomira Plan Commission” which shall consist of seven (7) members. (Ren. fr. §2.28.010 Rn. fr. Ord. 69A § 1, 1955)

1.16(2) APPOINTMENT AND TERM. The Plan Commission shall consist of 7 members as follows: (a) Presiding Officer. The President of the Village Board of Trustees, who shall be its presiding officer;

1.16(2)(b) Commission Members. The Plan Commission shall consist of 2 Village Board trustees and 4 citizens of the Village who are not serving on the Board of Trustees.

1.16(2)(b)1. The two trustee members and the four citizen members shall be appointed by the President subject to approval by a two-thirds (2/3) vote of the Board of Trustees.

1.16(2)(b)2. The four citizen members shall serve alternate four-year terms so that one member is appointed each year.

1.16(2)(b)3. The term of office for each newly appointed member of the commission shall commence on the third Tuesday in April of the year in which appointed. (Rn. fr. Ord. 69A §2(e), 1955 and §2.28.030).

1.16(3) VACANCIES. All vacancies on the Plan Commission shall be filled for the unexpired term in the same manner as appointment for the full term. (Rn. fr. Ord. 69A, 1955 §2(a), and §2.28.020)

1.16(4). COMPENSATION. Members of the Village Plan Commission shall receive such compensation as shall be from time to time set by the Board. Citizen members shall take the official oath required by §19.01, Wis. Stats., which shall be filed with the Village Clerk/Treasurer. (Ord., 142, 1981 and Rn. fr. §2.28.040)

1.16(5) ORGANIZATION. The Plan Commission shall elect such officers from among its memberships as in its judgement may be necessary and may formulate procedural rules for governing its conduct not inconsistent with any of the provisions of this chapter. (Ord. 69A §3 (a), 1955 and rn. fr. §2.28.050).

1.16(6) MEETINGS. The Village Plan Commission will hold regular monthly meetings on the third Wednesday of each month at 7:00 P.M. Special meetings may be called by the Village Clerk if requested by an individual, and approved by two members of the

Planning and Zoning Commission. (Ord. 142, 1981, amended by Ord. 149, 1982 m. fr. §2.28.055, amended by Ord. 239, 2001, 240, 2001.)

- 1.16(7) RECORDATION OF ACTIONS. The Plan Commission shall keep a written record of its proceedings, to include all actions taken, a copy of which shall be filed with the Clerk/Treasurer. Four members shall constitute a quorum, but all actions shall require the affirmative approval of a majority of all of the members of the commission. (Ord. 69A § 3 (b), 1955, Rn. f. §2.28.060).
- 1.16(8) UTILIZATION OF EXISTING EMPLOYEES AND OFFICIALS. The Plan Commission shall utilize the services of existing Village officials and employees. (Ord. 69A 3 (d), 1955 Rn. fr. §2.28.080).
- 1.16(9) POWERS AND DUTIES. The Plan Commission shall have the powers and duties as are prescribed in §62.23, Wis. Stats., and such other powers and duties as shall be vested in it from time to time by the Village Board. (Ord. 69A s. 4 (a), 1955, §2.28.090) (See also Chs. 12, 14, 15, 16, 17 and 18, this code)
- 1.17 BOARD OF ZONING APPEALS. See §18.45 this code.
- 1.18 JOINT MUNICIPAL COURT. (1) Joint Municipal Court Created. Pursuant to Chapter 755, Wisconsin Statutes, there is hereby created and established a Municipal Court designated “Joint Municipal Court for the City of Fox Lake, the Village of Brownsville, and the Village of Lomira,” (hereafter known as “Joint Municipal Court”) presided over by a Municipal Judge. The Joint Municipal Court may also be referred to as the Fox Lake Municipal Court.
- 1.18(2) CREATION OF MUNICIPAL COURT COMMITTEE. Each of the participating municipalities shall appoint one member and one alternate member to the Municipal Court Committee. The purpose of said committee shall be to facilitate the orderly administration and communication between the Municipal Judge and the participating members.
- 1.18(3) CREATION AND QUALIFICATION OF THE POSITION OF MUNICIPAL JUDGE. Pursuant to Chapter 755, Wisconsin Statutes, the office of Municipal Judge is hereby created. Eligibility for the office of Municipal Judge shall be as follows: To be eligible for the office of Municipal Judge, a person must be a qualified elector in the City of Fox Lake, the Village of Brownsville, or the Village of Lomira.
- 1.18(4) ELECTION AND TERM OF MUNICIPAL JUDGE. Pursuant to Section 755.01(4), Wisconsin Statutes, the municipal judge for the existing municipal court shall serve as Municipal Judge for the Joint Municipal Court until the end of the term which expires April 30, 2024. The Municipal Judge must run for election in the spring, 2024 election at large for the term following that present term (which expires April 30, 2024), for a 4-year term, commencing on May 1 after his/her election. Electors from the City of Fox Lake, the Village of Brownsville and Village of Lomira shall be eligible to vote for the Municipal Judge of the Joint Municipal Court.
- 1.18(5) CREATION OF THE POSITION OF COURT OF CLERK OF THE MUNICIAPL COURT. Pursuant to Chapter 755, Wisconsin Statutes, the office of the Court Clerk of the Municipal Court is hereby created. Said clerk shall take the position upon agreement of the Municipal Judge. Training and compensation of said clerk shall be as determined by the Municipal Court Committee.

- 1.18(6) SALARY OF MUNICIPAL JUDGE. The Municipal Judge shall receive a fixed salary and Municipal Judge's training pursuant to Section 755.18, Wisconsin Statutes, the salary to be determined by the Municipal Court Committee, subject to Section 755.04, Wisconsin Statutes, which shall be in lieu of fees and costs. The salary shall be paid monthly. No Salary shall be paid to the Municipal Judge anytime during his or her term for which he or she has not executed and filed the official bond and oath as required by subsection (7) of this section.
- 1.18(7) BOND AND OATH OF MUNICIPAL JUDGE. The Municipal Judge shall, after election or appointment to fill a vacancy, take and file the Official Oath as prescribed in section 757.02(1), Wisconsin Statutes, Pursuant to Section 755.03, Wisconsin Statutes, with the Clerk of the Circuit Court for Dodge County, and at the same time, shall execute and file an official bond.
- 1.18(8) BOND AND OATH OF MUNICIPAL COURT CLERK. The Municipal Court Clerk shall, before entering upon the duties of the office, take and file the Official Oath as prescribed in section 19.01, Wisconsin Statutes, with the City Clerk of the City of Fox Lake and at the same time, shall execute and file an official bond. The City Clerk of the City of Fox Lake will provide file copies to the Village of Brownsville and the Village of Lomira.
- 1.18(9) JURISDICTION OF MUNICIPAL JUDGE. The Municipal Judge shall have jurisdiction as provided by the Statutes and Laws of the State of Wisconsin and pursuant to Section 755.045, Wisconsin Statutes.
- 1.18(10) PROCEDURES OF JOINT MUNICIPAL COURT. (a) The Joint Municipal Court shall be open as determined by the order of the Municipal Judge.
- 1.18(10)(b) The Joint Municipal Court shall be held in the Council Chambers which is located in the City of Fox Lake City Hall.
- 1.18(10)(c) The procedure in Joint Municipal Court shall be as provided by the Statutes and Laws of Wisconsin.
- 1.18(10)(d) The Municipal Judge and/or his designated Court Clerk shall make daily deposits of all forfeitures, fees, penalties, assessments and costs collected in any action or proceeding before the Joint Municipal Court. These deposits will be made to the designated bank account as determined by the Joint Municipal Court Committee.
- 1.18(11) CONTEMPT IN JOINT MUNICIPAL COURT. The Municipal Judge may impose a sanction as authorized under Section 800.12(2) Wisconsin Statutes, for Contempt of Court as defined in Section 785.01(1), Wisconsin Statutes, in accordance with the procedures under Section 785.03, Wisconsin Statutes.

Section 2. All ordinances or parts of ordinances contravening or inconsistent with the provisions of this ordinance be and are hereby repealed.

Section 3. The city of Fox Lake, the Village of Brownsville, and Village of Lomira shall enter into agreement for the operation of the Municipal Court upon mutually agreeable terms.

Section 4. This ordinance shall take effect and be in full force and effect from and after its passage herein by the Village of Lomira and passage of an identical ordinance by the City of Fox Lake, and upon publication as required by law, to take effect on the first day of the month following adoption of such identical ordinance by the last of the two municipalities to do so.

VILLAGE RECORDS AND ADMINISTRATIVE REVIEW

- 1.24 ACCESS TO VILLAGE RECORDS. (Recr. fr. Ch. 2.40, 1984 as amended) (1) **PURPOSE.** In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of the Village that all persons are entitled to the greatest possible information regarding the governmental affairs of the Village and the official acts of the Village's officers and employees. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, and in accordance with §§19.21 to 19.39, Wis. Stats., this section shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business.
- 1.24(2) **AUTHORITIES DESIGNATED.** Chapter 19, Wis. Stats., requires Wisconsin governments to follow certain procedures as to open records and naming certain authorities and custodians. Under authority of §19.33, Wis. Stats., the following authorities are named:
- 1.24(2)(a) The Clerk/Treasurer shall be the authority and custodian of the following: Investment records; Tax collection records; Village receipts; Village canceled checks; Bank statements and bank Reconciliations; Bank deposit receipts; Any other records designated by law to be in the care of the Village Clerk/Treasurer.
- 1.24(2)(b) The Assessor shall be the authority and custodian for all assessment records of the Village of Lomira.
- 1.24(2)(c) The Department of Public Works shall be the authority and the Director of Public Works shall be the custodian for all records of the Department of Public Works, the Grantsman, and the Planning Commission of the Village of Lomira.
- 1.24(2)(d) The Police Chief shall be the authority and custodian for all records of the Police Department of the Village of Lomira.
- 1.24(2)(e) The Fire Chief shall be the authority and custodian for all records of the Fire Department of the Village of Lomira.
- 1.24(2)(f) The Health Officer shall be the authority and custodian for all the health records of the Village of Lomira. (Repealed by recodification, 2001)
- 1.24(2)(g) The Building & Plumbing Inspector shall be the authority and custodian for all the records under his jurisdiction of the Village of Lomira.
- 1.24(2)(h) The Parks & Recreation Director shall be the authority and custodian of all records under his jurisdiction of the Village of Lomira.

1.24(2)(i) The Librarian shall be the authority and custodian of all records of the Library Board.

1.24(2)(j) The Water Utilities Superintendent shall be the authority and custodian of all records of the Water Utilities for the Village of Lomira.

- 1.24(3) SUPERVISION OF PUBLIC RECORDS. Legal custody may require supervision during an inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged. In accordance with §19.35(3)(a), Wis. Stats., the requester shall be charged a copying fee to defray the cost of copying records. Said fee including labor expenses that are actually, necessarily and directly incurred in connection with reproduction of the Village record may be incorporated in the copying or reproduction charge.

NOTE: The fee for copying public records may include a component for labor expenses actually, necessarily and directly incurred in connection with reproduction of public records; search fees cannot be charged as reproduction fees; local units of government cannot by ordinance establish public record copy fees that deviate from actual, necessary and direct costs of reproduction; and the municipal law provision authorizing the same fee for the same service has little if any practical impact vis-a-vis the requirement that fees for public records be limited to actual, necessary and direct costs. 72 AG 150

1.24(3)(a) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

1.24(3)(b) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- or video-tapes, shall be charged.

1.24(3)(c) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

1.24(3)(d) There shall be no charge for locating a record unless the actual cost thereof exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

1.24(3)(e) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds \$5.

1.24(3)(f) Elected and appointed officials of the Village of Lomira shall not be required to pay for public records they may reasonably require for the proper performance of their official duties. (recr. & Rn. fr. Ord. 168, 1984,. \$2.40.020)

- 1.24(4) PUBLIC NOTICE. Pursuant to §19.34 Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at his offices for the guidance of the public, a notice containing a description of its organization and the established times and places in which the legal custodian from whom and the methods whereby the public may obtain information and access to records in its custody, make request for records, or obtain copies for records, and the cost thereof. This subsection does not apply to members of the Village Board (See §19.34(1), Wis. Stats).

- 1.24(5) FISHING EXPEDITIONS LIMITED. (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it is reasonable, describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented

by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under §19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is given. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

1.24(5)(b) Each custodian, upon request for such record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. This section recognizes 4 possible bases for denying access to public records of the Village: 1. Express statutory exemptions;

1.24(5)(b)2. exemptions under the open meetings law if the requisite demonstration that there is a need to deny or restrict access at the time the request to inspect or copy a record is made; and,

1.24(5)(b)3. common law principles (The common law principle on public records is the "balancing test" which provides that the custodian "must balance the harm to the public interest from public examination of the records). If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance. (see: *State ex rel. Bilder v. Delavan* p., 112 Wis. 2d 539, 533, 334 N. W.2d 252, 1983, and 73 Op. Att'y Gen. 20, 20-21, 1984).

1.24(5)(c) A request for a record may be denied as provided in par. (b) above. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under §19.37, Wis. Stats., or upon application to the State's Attorney General or a district attorney. (Rn. fr. Ord 168, 1984, amending §2.40.040)

- 1.25 ADMINISTRATIVE REVIEW PROCEDURE. (1) PURPOSE. The purpose of this section is to afford a constitutionally sufficient, fair and orderly administrative procedure and review in connection with determinations made by municipal authorities which involve constitutionally protected rights of specific persons which are entitled to due process protection under the 14th Amendment to the U.S. constitution.
- 1.25(2) STATE STATUTES ADOPTED. In order to ensure fair play and due process in the administration of the affairs, by-laws, resolutions, and ordinances of the Village, the Village Board declares that the provisions of Ch. 68, Wis. Stats., relating to municipal administrative review procedures shall be in full force and effect in the Village except as provided in subs. (4).
- 1.25(3) REVIEW OF ADMINISTRATIVE DETERMINATIONS. Any person having a substantial interest which is adversely affected by an administrative determination of the Village Board or body, board, commission, committee, agency, officer or employee of

the Village or agent acting on behalf of the Village as set forth in §68.02, Wis. Stats., may have such determination reviewed as provided herein. The remedies under this section shall not be exclusive. No department, board, commission, agency, officer or employee of the Village who is aggrieved may initiate review under this section of a determination of any other department, board, commission, agency, officer or employee of the Village, but may respond or intervene in a review proceeding under this section which is initiated by another.

1.25(4) DETERMINATIONS REVIEWABLE. The following determinations are reviewable under this section:

1.25(4)(a) The grant or denial in whole or in part after application of an initial permit, license, right, privilege, or authority, except an alcohol beverage license.

1.25(4)(b) The suspension, revocation or nonrenewal of an existing permit, license, right, privilege, or authority, except as provided in §68.03 (5), Wis. Stats.

1.25(4)(c) The denial of a grant of money or other thing of substantial value under a statute or ordinance prescribing conditions of eligibility for such grant.

1.25(4)(d) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

1.25(5) DETERMINATIONS NOT SUBJECT TO REVIEW. Except as provided in §68.05, Wis. Stat., the following determinations are not reviewable under this section:

1.25(5)(a) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Village Board.

1.25(5)(b) Any action subject to administrative or judicial review procedures under other statutes.

1.25(5)(c) The denial of a tort or contract claim for money, required to be filed with the municipality pursuant to statutory procedures for the filing of such claims.

1.25(5)(d) The suspension, removal or disciplining or nonrenewal of a contract of a municipal employee or officer.

1.25(5)(e) The grant, denial, suspension or revocation of an alcohol beverage license under §125.12(1), Wis. Stats.

1.25(5)(f) Judgments and orders of a court.

1.25(5)(g) Determinations made during municipal labor negotiations.

1.25(5)(h) Any action which is subject to administrative review procedures under an ordinance providing such procedures as defined in §68.16, Wis. Stats.

1.25(5)(i) Notwithstanding any other provision of this chapter, any action or determination of a municipal authority which does not involve the constitutionally protected right of a specific person or persons to due process in connection with the action or determination.

1.25(6) REQUIRED. All officer, employees, agencies, committees, boards, commissions and agents of the Village shall comply with the requirements of this section and Ch. 68, Wis. Stats., and shall conduct initial administrative reviews of their own determinations in accordance with §68.09, Wis. Stats., and this section.

1.25(7) CONDUCT OF HEARING. At the hearing, the appellant and the municipal authority may be represented by an attorney and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Village Board, unless it or any of its members are a party to or have an interest in the subject matter of an appeal, shall serve as the impartial appeals board under this section. In the event the Board or any of its members are a party to or have an interest in an appeal made hereunder, the Village Chairperson shall appoint an impartial decision maker, who may be an officer, committee, board, or commission of the Village who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal.

1.25(9) EFFECT. The provisions of this section shall not be deemed to repeal or supersede specific procedures for review of administrative determinations under any other section of this Code.

1.26 Preservation through microfilm and electronic formatting.

Any custodian of records may keep and preserve public records by means of microfilm or other photographic reproduction device, optical imaging or electronic formatting. Such records shall meet the standards for photographic reproduction set forth in Wis. Stats., §§ 16.61(7) and 16.12, and shall be considered original records for all purposes.

OFFICIAL MAP OF THE VILLAGE

1.28 PURPOSE OF OFFICIAL MAP. In order to conserve and promote the public health, safety, convenience and general welfare, there is adopted and established the official map of the Village. It is the purpose of the official map to show the width and location of the streets, highways, and parkways in order to promote the efficient and economical development of the Village. (ord. 76 §1, 1960, Rn. fr. §1.08.010)

1.29 FILING OF CERTIFICATE. Immediately upon adoption of the ordinance codified in this chapter, the Village Clerk/Treasurer shall file with the Register of Deeds of Dodge County a certificate showing that the Village has established the official map as described in Section 1.08-.010 and the Village Clerk/Treasurer shall do likewise as to any changes or additions. (Ord. 76 §2, 1960, Rn. fr. §1.08.020)

1.30 VILLAGE PLAN COMMISSION: AUTHORITY. The Village Plan Commission, when passing upon a land subdivision plat referred to it by the Village Board, shall not recommend such plat for approval unless it conforms with the official map. (Ord. 76 §3, 1960, Rn. fr. §1.08.030)

1.31 BUILDING PERMITS: PLOT PLAN. For the purpose of preserving the integrity of the official map, no permit shall hereafter be issued for any building in the bed of any street, highway or parkway shown or laid out in such map except as provided in Wis. Stat., §62.23(6)(d) and (e). The proper official authorized by the Village Board to issue building permits shall require each applicant to submit a plot plan, certified by a qualified surveyor, for approval. Such plot shall show accurately the location of any proposed

building(s) with reference to any street as shown on the official map. (Ord. 76 §4, 1960, Rn. fr. §1.08.050)

1.32 CHANGES TO MAP. The Village Board, whenever and as often as it may deem it for the public interest, may change or add to the official map of the Village in conformity with the provisions contained in §62.23(6)(b), Wis. Stats. (Ord. 76 §5, 1960, Rn. fr. §1.08.060)

1.33 VIOLATION AND PENALTY. Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this section, upon conviction thereof, shall be subject to the penalties set forth in Ch. 25.04 of this Code. (Amended during 1978 codification; Ord. 76 §6, 1960, Rn. fr. §1.08.060)

Chapter 2

FINANCE AND REVENUES

- 2.01 Annual Budget Procedures
- 2.02 Annual Financial Statement
- 2.03 Keeping Financial Records
- 2.04 Claims Against Village
- 2.05 Disbursement From Village Treasury
- 2.06 Public Depository
- 2.07 Village Taxes
- 2.08 Payment for Public Works; Special Assessments
- 2.09 Hotel/Motel Room Tax

2.01 ANNUAL BUDGET PROCEDURES. (1) PREPARATION. The Village Board shall be responsible for the preparation of the proposed budget as required under §65.90, Wis. Stats.

2.01(1)(a) Assistance. In preparing the budget the Village Board may provide for assistance by any person.

2.01(1)(b) Hearing. The Village Board shall conduct the annual budget hearing as required in §65.90(3)(a), Wis. Stats., and shall adopt the annual budget only after conducting said hearing.

2.01(2) AMENDMENTS. The annual Village Budget may be amended by the Village Board as provided in §65.90(5), Wis. Stats.

2.02 ANNUAL FINANCIAL STATEMENT. See §64.34, Wis. Stats.

2.03 KEEPING FINANCIAL RECORDS. See §61.23, Wis. Stats.

2.04 CLAIMS AGAINST VILLAGE. (1) GENERAL PROCEDURE.

2.04(1)(a) Claims for money against the Village or against officers, officials, agents or employees of the Village arising out of acts done in their official capacity shall be filed with the Village Clerk/Treasurer as provided under §893.80(1)(b), Wis. Stats.

2.04(1)(b) The Village Board shall allow or disallow the claim. Notice of disallowance shall be made as provided under §893.80(1)(b), Wis. Stats.

2.04(2) ALTERNATIVE PROCEDURE. (a) This section provides procedures for approving financial claims against the Village which are in the nature of bills and vouchers. Payments made hereunder may be made from the Village Treasury under §66.042, Wis. Stats., after the Village Clerk/Treasurer has reviewed and approved in writing each bill or voucher as a proper charge against the treasury, after having determined that:

2.04(2)(a)1. Funds are available under the Village Budget to pay the bill voucher.

2.04(2)(a)2. The item or service covered by the bill or voucher has been duly authorized

2.04(2)(a)3. The item or service covered by the bill or voucher has been supplied or rendered in conformity with the authorization.

2.04(2)(a)4. The claim appears to be a valid claim against the Village.

2.04(2)(b) The Village Clerk/Treasurer may require submission of proof to determine compliance with the conditions under par. (a)1. To 4.

2.04(2)(c) The Village Clerk/Treasurer shall file with the Village Board at least monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

2.04(3) COURT ACTIONS TO RECOVER CLAIMS. Nothing in subs. (2) shall affect the applicability of §893.80, Wis. Stats. No action may be brought or maintained against the Village upon a claim unless the complaint complies with §893.80, Wis. Stats.

2.05 DISBURSEMENT FROM VILLAGE TREASURY. Disbursement from the Village Treasury shall be made in accordance with §66.042(1) to (5), Wis. Stats.

2.06 PUBLIC DEPOSITORY. (1) DESIGNATION. The Village Board shall, from time to time, designate one or more public depositories for depositing the funds of the Village. The Clerk/Treasurer and the Clerk/Treasurer's surety are not liable for loss, as defined under §34.01(2), Wis. Stats., of money deposited in the name of the Village in a designated public depository. Interest accruing from Village money in a public depository shall be credited to the Village.

2.06(2) ANNUAL STATEMENT. Each institution designated hereunder, shall submit annual statements of financial condition to the Village Clerk/Treasurer.

- 2.07 VILLAGE TAXES. (1) GERNEAL AND LIMITED AUTHORITY. The Village Board shall, on or before December 15 in each year, by resolution, determine the amount of corporation taxes to be levied and assessed on the taxable property in the Village for the current year. Before levying any tax for any specified purpose, exceeding one percent of the assessed valuation aforesaid, the Village Board shall, and in all other cases may in its discretion, submit the question of levying the same to the Village electors at any general or special election by giving 10 days' notice thereof prior to such election by publication in a newspaper published in the Village, if any, and if there is none, then by posting notices in 3 public places in said Village, setting forth in such notices the object and purposes for which such taxes are to be raised and the amount of the proposed tax.
- 2.07(2) STREET AND SIDEWALK IMPOROVEMENT TAX. For the purpose of improving the streets, making and improving sidewalks and crosswalks and setting out shade and ornamental trees in the Village, the Village Board may levy a tax in addition to the highway tax provided for in sub. (3) and §61.46(2), Wis. Stats., and the amount fixed shall be levied, certified and collected as provided in Wisconsin statutes. All moneys so collected shall be paid to the Village Clerk/Treasurer and expended under the direction of the Board of Trustees.
- 2.07(3) HIGHWAY. The Village Board shall, at the same time and in like manner, determine the amount, if any, of highway tax to be levied and collected in the Village for the current year. Such highway tax shall thereafter be assessed and collected by the Village Clerk/Treasurer at the time and in the manner provided for the collection of other Village taxes; and such highway tax shall be kept as a separate fund, and shall be expended under the direction of the Village Board in the improvement of the streets, highways and bridges in the Village. (Repealed and Recreated by recodification, 2001)
- 2.08 PAYMENT FOR PUBLIC WORKS: SPECIAL ASSESSMENTS. The Village Board may levy and collect a pscial assessments and charges under §66.60, Wis. Stats., to pay for all or part of the cost of any public work or improvement. Special assessments may be paid under §66.54, Wis. Stats. Reassessments shall be under §66.635, Wis. Stats.
- 2.09 HOTEL AND MOTEL ROOM TAX REGULATIONS: PERMIT REQUIRED Cr. Ord. 237, July 18, 2001). (1) DEFINITIONS. Unless the text specifically indicates otherwise, the following terms and phrases, as used in this section, shall have the meanings hereinafter designated:
- 2.09(1)(a) Hotel or Motel. A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation such establishments as inns, motels, hotels, tourist homes, tourist houses or courts, lodging houses, rooming houses, bed and breakfast establishments, summer camps, apartment hotels, resort lodges and cabins, and any other building in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitarium or nursing home, or by corporations or associations organized and operated exclusively for religious, charitable or education purposes provided that no part of the net earnings of such corporations and associations inured to the benefit of any private shareholder or individual.
- 2.09(1)(b) Gross Receipts. As defined in §77.51, Wis. Stats., insofar as applicable.

2.09(1)(c) Transient. Any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public.

2.09(2) IMPOSITION OF ROOM TAX. (a) Pursuant to §66.75, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of 4% of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by §77.52(s)(a)1., Wis. Stats.

2.09(2)(b) PROMOTIONAL FUNDS. 49% of hotel room tax funds shall be placed in a Promotional Fund, controlled by the Lomira Village Board, and used to advertise and promote the Village of Lomira and its activities as the Board sees fit.

2.09(2)(c) TOURISM COMMISSION. The tourism commission shall coordinate tourism promotion and tourism development for the Village of Lomira. The commission will consist of five (5) members made up of one Village Board member, three (3) Chamber of Commerce members and the hotel owner or representative of the hotel. Commission members will serve one year terms commencing on the third Tuesday of April and may be reappointed. Members shall be appointed by the President of the Village and confirmed by a majority vote of the municipal governing body who are present at the time the vote is taken. The commission shall appoint a Chairman.

2.09(2)(c)1. USE OF REVENUE. 51% of hotel room tax funds shall be placed in a Tourism Fund managed by the Commission Chairman and the Village Clerk. The Commission must report annually to the Village the purposes for which the revenues were spent. The Commission may not use any of the room tax revenue to construct or develop a lodging facility. The Commission must spend the revenue on tourism promotion and tourism development in the Village.

2.09(3) RETURN FILING REQUIREMENTS. (a) This section shall be administered by the Village Treasurer. The tax imposed for the months of April, May and June, 2001, are for each calendar quarter thereafter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the Village Treasurer by those furnishing, at retail, such rooms and lodging on or before the same date on which such tax is due and payable. Such return shall show the gross room receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Village deems necessary. Every person required to file such quarterly return shall, with his first return, file an annual calendar year return. Such annual return shall be filed within 30 days of the close of each such calendar year.

2.09(3)(b) The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain such additional information as the Village requires. Such annual returns shall be made on forms prescribed by the Treasurer. All such returns shall be signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The Village Treasurer may, for good cause, extend the time of filing any return, but in no event longer than one month from the filing date.

- 2.09(4) GRIEVANCES. Any person aggrieved by this ordinance may petition the head of the Village for a determination of said grievance. The head of the Village shall appoint three disinterested persons to review and decide said grievance.
- 2.09(5) TAX PAYMENT LIABILITY. If any person liable for any amount of tax under this section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Village Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodation valued in money.
- 2.09(6) OFFICE AUDITS. The Village Treasurer may, by office audit, determine the tax required to be paid to the Village or the refund due to any person under this section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Village Treasurer's possession. One or more such office audit determinations may be made of the amount due for any one period or for more than one period.
- 2.09(7) FIELD AUDITS. The Village Treasurer may, by field audit, determine the tax required to be paid to the Village or the refund due to any person under this section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Village Treasurer's possession. The Village Treasurer is authorized to examine and inspect the state sales tax records and memoranda of any person in order to verify the tax liability of that person or of another person.
- 2.09(8) ESTIMATED TAX. If any person fails to file a return, as required by this section, the Village Treasurer shall make an estimate of the amount of the gross receipts under sub. (2). Such estimate shall be made for the period from which such person failed to make a return and shall be based upon the State Sales Tax records and memoranda as stated herein. On the basis of this estimate, the Village Treasurer shall compute and determine the amount required to be paid to the Village, adding to the sum thus arrived at a penalty equal to 10 percent (10%) thereof. One or more such determinations may be made for one or more than one period.
- 2.09(9) INTEREST ON DELINQUENT PAYMENTS. All unpaid taxes under this section shall bear interest at the rate of 10% per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Village Treasurer. All refunded taxes shall bear interest at 10% per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the Village Treasurer determines that any overpayment of tax has been intentional or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return, it shall not allow any interest thereon.
- 2.09(10) DELINQUENT RETURNS. Delinquent tax returns shall be subject to a \$10 late filing fee. The tax imposed by this section shall become delinquent if not paid: (a) In the case of a timely filed return, within 30 days after the due date of the return or within 30 days after the expiration of an extension period if one has been granted.

2.09(10(b) In the case of no return filed or a return filed late, by the due date of the return.

2.09(11) RECORDS REQUIRED. Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers three years in such form as the Village Treasurer requires.

2.09(12) CONFIDENTIALITY OF RETURNS. All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Village Treasurer are deemed to be confidential, except for persons using the information in the discharge of duties imposed by law or of the duties of their office or by court order (Sec. 66.75(3) of the Wis. Stats).

2.09(13) CONFIDENTIALITY OF RECORDS. No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided in sub. (12) above.

2.09(14) PENALTIES. Any person subject to the who fails or refuses to permit the inspection of his state sales tax records by the Treasurer after such inspection has been duly requested by the Treasurer, or who fails to file a return as provided in this section, or who violates any other provision of this section, shall be subject to a forfeiture not to exceed \$100. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

2.09(15) SPEARABILITY AND CONFLICT. (a) If any section, subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

2.09(15)(b) All ordinances or parts of ordinances which are inconsistent or contrary to this ordinance are repealed.

2.09(15)(c) Effective date of this ordinance shall take effect from and after its publication as provided by law.

Chapter 3

CIVIL DEFENSE

- 3.01 Purpose
- 3.02 Declaration of Necessary Actions
- 3.03 Definitions
- 3.04 Coordination with Existing Facilities
- 3.05 Commission: Created: Officers Designated
- 3.06 Commission: Duties
- 3.07 Director: Appointment
- 3.08 Coordination Between Existing Departments
- 3.09 Mutual Aid Agreements

- 3.10 Emergency Regulations
- 3.11 Declaration of Emergencies
- 3.12 Violation and Penalty

- 3.01 PURPOSE. The purpose of this Chapter is to prepare the Village to cope with emergencies resulting from enemy action and natural or man-made disasters, as set forth in §166.02, Wis. Stats.
- 3.02 DECLARATION OF NECESSARY ACTIONS. By reason of the increasing possibility of disasters of unprecedented size and destructiveness, and to insure that preparation will be adequate to cope with such disasters, and to provide for the common defense, to protect the public peace, health, safety, and general welfare, and to preserve the lives and property of the people, the following actions are necessary:
 - 3.02(1) To establish a local civil defense organization;
 - 3.02(2) To provide for the exercise of necessary powers during civil defense emergencies; and

- 3.02(3) To provide for the rendering of cooperation and mutual aid between this Village and other political subdivisions. (Ord. 75A §1(b), 1959 Rn. fr. §2.36.020).
- 3.03 DEFINITIONS: (1) EMERGENCY GOVERNMENT. Emergency government includes civil defense and means all measures undertaken by or on behalf of the Village; to prepare for and minimize the effects of enemy action and natural or man-made disasters upon the civilian population and to effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.
- 3.03(2) CIVIL DEFENSE. Civil defense means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or by fire, flood or other natural causes. (Ord. 75A §1(a), 1959, Rn. fr. §2.36.010)
- 3.03(3) ENEMY ACTION. Enemy action means hostile action by a foreign power which threatens the security of the Village or a portion thereof.
- 3.04 COORDINATION WITH EXISTING FACILITIES. It is the purpose of this chapter and the policy of the Village that all civil defense functions of this Village be coordinated to the maximum extent practicable with existing services and facilities of this Village and with comparable functions of the federal, state and county government and other political subdivisions, and of various private agencies to the end that the most effective preparation and use may be made of manpower, resources, and facilities for dealing with any disaster that may occur. (Ord. 76A §1(c), 1959, Rn. fr. §2.36.030)
- 3.05 COMMISSION: CREATED: OFFICERS DESIGNATED. There is created a civil defense commission composed of the Village President, and as many additional members as may be determined by the Village Board by resolution, who shall be appointed by the Village President subject to the confirmation of the Village Board, and who shall serve without compensation. The Village President shall serve as chairman of the commission and the civil defense director shall serve as secretary of the commission. (Ord. 75A §2(a), 1959, Rn. fr. §2.36.040)
- 3.06 COMMISSION: DUTIES. The civil defense commission shall be an advisory and planning group and shall advise the Village President, director and the Village Board on all matters pertaining to civil defense. The civil defense commission shall meet upon the call of the chairperson. (Ord. 75A §2(b), 1959, Rn. fr. §2.36.050)
- 3.07 DIRECTOR AND DEPUTY ESTABLISHED. (1) DIRECTOR APPOINTMENT. The Office of Director of Civil Defense is created. The director shall be appointed by the Village President, subject to confirmation by the Village Board and shall receive such salary as may be authorized by the Village Board. The director shall take and file an official oath.
- 3.07(2) DEPUTY AND ASSISTANT DIRECTORS. Deputy and assistant directors may be appointed by the director, subject to the approval of the civil defense commission, as may be deemed necessary, and such appointees shall receive such compensation as may be determined by the Village Board. (Ord. 75A §3(a), 1959, Rn. fr. §2.36.060)
- 3.07(3) DIRECTOR: DUTIES AND AUTHORITY. (a) The director shall be the executive head of the civil defense organization and shall have direct responsibility for the organization,

administration and operation of the civil defense organization subject to the direction and control of the Village President and the Village Board.

3.07(3)(b) The director shall coordinate all activities for civil defense within the Village and shall maintain liaison and cooperation with civil defense agencies and organizations of other political subdivisions and of the state and federal government, and shall participate in county and state civil defense activities upon request, and shall have such additional authority, duties, and responsibilities as are authorized by this chapter and as may from time to time be required by the Village Board.

3.07(3)(c) The director shall prepare a comprehensive general plan for the civil defense of the Village and shall present such plan to the Village Board for its approval. When the Village Board has approved the plan by resolution, it shall be the duty of all municipal agencies and all civil defense forces of the Village to perform the duties and functions assigned by the plan as approved. The plan may from time to time be modified in like manner. (Ord. 75A §3(b), 1959, Rn. fr. §2.36.070)

- 3.08 COORDINATION BETWEEN EXISTING DEPARTMENTS. In preparing and executing the civil defense plan, the director shall utilize the services, equipment, supplies and facilities of the existing departments and agencies of the Village to the maximum extent practicable. The officers and personnel of all such departments and agencies are directed to cooperate with and extend such services and facilities to the director. (Ord. 75A §4, 1959, Rn. fr. §2.36.080)
- 3.09 MUTUAL AID AGREEMENTS. The director of civil defense may, subject to the approval of the Village Board, enter into mutual aid agreements with other political subdivisions. Copies of such agreements shall be filed with the State Director of Civil Defense. (Ord. 75A §6, 1959, Rn. fr. §2.36.090)
- 3.10 EMERGENCY REGULATIONS. Whenever necessary to meet a civil defense emergency for which adequate regulations have not been adopted by the Village Board, the Village President and, in his absence, the director of civil defense may by proclamation promulgate and enforce such orders, rules and regulations relating to the conduct of persons and the use of property as shall be necessary to protect the public peace, health and safety, and preserve lives and property and to insure the cooperation necessary in civil defense activities. Such proclamations shall be posted in 3 public places and may be rescinded by the Village Board by resolution at any time. (Ord. 75A §5, 1959, Rn. fr. §2.36.100)
- 3.11 DECLARATION OF EMERGENCIES. Upon the declaration by the governor, by the Village President, or by the civil defense director in the absence of the Village President, or by the Village Board, of a state of emergency, the director of civil defense shall issue all necessary proclamations as to the existence of such state of emergency and shall issue such disaster warnings or alerts as shall be required in the civil defense plan. This civil defense organization shall take action in accordance with the civil defense plan only after the declaration of an emergency and the issuance of official disaster warnings. Such state of emergency shall continue until terminated by the issuing authority, provided, that any such declaration not issued by the governor may be terminated at the discretion of the Village Board. (Ord. 75A §7, 1959, Rn. fr. §2.36.110)
- 3.12 VIOLATION AND PENALTY. It is unlawful for any person to willfully obstruct, hinder or delay any member of the civil defense organization in the enforcement of any order,

rule, regulation or plan issued pursuant to this chapter, or to do any act forbidden by any order, rule, regulation or plan issued pursuant to the authority contained in this chapter. For violation of the provisions of this chapter, the offender is subject to the penalty contained in §25.04 of this Code. (Amended during 1978 codification: Ord. 75A §8, 1959, Rn fr. §2.36.120)

Chapter 5

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INTRODUCTION

- 5.01 GENERAL PROVISIONS. (1) LICENSE AND PERMIT REQUIREMENTS. Unless otherwise specifically provided for herein, licenses and permits required for carrying on a business or a trade within the Village of Lomira shall be applied for, issued, revoked and terminated in accordance with the provisions of this chapter.

- 5.01(2) APPLICATIONS. Every application for a license shall be made upon that form as shall be furnished by the Village Clerk/Treasurer. The application shall be verified and shall contain the name, place of residence, age, and occupation of the applicant, the purposes for which a license is desired, and the place where and the terms for which the applicant proposes to carry on the business or trade to be licensed. A receipt of the Village Clerk/Treasurer showing a license fee has been paid must be presented with the application for a license where required.

- 5.01(3) **ISSUANCE.** Unless otherwise specifically provided, licenses, when granted, shall only be issued by the Village Clerk/Treasurer and shall state the date thereof, the day from which it shall be in force, the name, place of residence, and place of business of the person to whom it is issued, the particular purpose and the time for which issued, and the amount of the license fee paid. (a) The Village Clerk/Treasurer shall keep all such applications on file and shall keep a record of all licenses issued.
- 5.01(3)(b) Each license issued under this chapter shall be separately displayed on the premises or vehicle licensed.
- 5.01(4) **TERMINATION.** Except where otherwise provided, every license or permit issued under this chapter shall terminate or expire on June 30 of each year.
- 5.01(5) **REVOCATION.** Licenses or permits granted or issued under the provisions of this chapter may be revoked by the Village Board for causes as are provided herein or for causes as may be provided by State law or the other ordinances, regulations, or rules of the Village relating to the particular trade, occupation or business so licensed.
- 5.01(6) **LICENSE FEES UPON REVOCATION.** No license fee shall be refunded if a license or permit is revoked for cause.
- 5.01(7) **TRANSFER OF LICENSES.** No license may be transferred unless otherwise provided by state statutes, by ordinances or as approved of by the Village Board.

ALCOHOL BEVERAGES

- 5.02 **PURPOSE AND INTENT.** The purpose of this subchapter is to regulate and control the issuance of permits and licenses in the uniform regulation of the sale of alcohol beverages within the corporate limits of the Village of Lomira in order to promote the public health, safety, morals, prosperity, aesthetics and the general welfare of the community.
- 5.03 **DEFINITIONS.** Except as otherwise provided, in this subchapter: (1) “Alcohol beverages” means fermented malt beverages and intoxicating liquor.
- 5.03(2) “Brewer” means any person who manufactures fermented malt beverages for sale or transportation.
- 5.03(3) “Brewery premises” means all land and buildings used in the manufacture or sale of fermented malt beverages as a brewer’s principal place of business.
- 5.03(4) “Campus” has the meaning given under §36.05(3), Wis. Stats.
- 5.03(5) “Club” means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.
- 5.03(6) “Department” means the department of revenue

- 5.03(7) “Fermented malt beverages” means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without un-malted grains or decorticated and degeminated grains or sugar containing 0.5% or more of alcohol by volume.
- 5.03(8) “Hotel” means a hotel, as defined in §254.61(3), Wis. Stats., that is provided with a restaurant.
- 5.03(9) “Intoxicating liquor” means all ardent, spirituous, distilled or vinos liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include “fermented malt beverages”.
- 5.03(10) “Legal drinking age” means 21 years of age.
- 5.03(11) “License” means an authorization to sell alcohol beverages issued by a municipal governing body under this chapter.
- 5.03(12) “Manufacturer” means a person, other than a rectifier, that ferments, manufactures or distills intoxicating liquor.
- 5.03(13) “Municipality” means a city, village or town.
- 5.03(14) “Peace officer” means a sheriff, undersheriff, deputy sheriff, police officer, constable, marshal, deputy marshal or any employee of the department or of the department of justice authorized to act under this chapter.
- 5.03(15) “Permit” means any permit issued by the department under this chapter.
- 5.03(16) “Person” means a natural person, sole proprietorship, partnership, limited liability company, corporation or association or the owner of a single-owner entity that is disregarded as a separate entity under Ch. 71, Wis. Stats.
- 5.03(17) “Premises” means the area described in a license or permit.
- 5.03(18) “Primary source of supply” means the manufacturer, the rectifier or the exclusive agent designated by the manufacturer or rectifier.
- 5.03(19) “Principal business” means the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.
- 5.03(20) “Rectifier” means any one of the following: (a) A person that rectifies, purifies or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort or wash, through continuous closed vessels or pipes, until the manufacture thereof is complete.
- 5.03(20)(b) A person who possesses any still or leach tub or keeps any other apparatus for refining distilled spirits.

5.03(20)(c) A person who after rectifying and purifying distilled spirits, by mixing such spirits with any materials, manufactures any spurious, imitation or compound liquors for sale.

5.03(20)(d) A distiller or any person under substantially the same control as a distiller who, without rectifying, purifying or refining distilled spirits, by mixing such spirits with any materials, manufactures any spurious, imitation or compound liquors for sale under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name.

5.03(20)(e) A person who places intoxicating liquor in bottles or other containers.

5.03(21) “Regulation” means any rule or ordinance adopted by a municipal governing body.

5.03(22) “Restaurant” means a restaurant, as defined in §254.61(5), Wis. Stats.

5.03(23) “Retailer” means any person who sells, or offers for sale, any alcohol beverages to any person other than a person holding a permit or a license under this chapter.

5.03(24) “Sell”, “sold”, “sale”, or “selling” means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

5.03(25) “Underage person” means a person who has not attained the legal drinking age.

5.03(26) “Wholesaler” means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

5.03(27) “Wine” means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

5.04 FERMENTED MALT BEVERAGES AND INTOXICATING LIQUORS.

5.04(1) STATE STATUTES ADOPTED. Except as otherwise specifically provided in this subchapter, the statutory provisions in Ch. 125, Wis. Stat., providing for the uniform regulation of the sale of alcohol beverages, including penalties to be imposed and procedures for prosecution, are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by reference is required or prohibited by this section. Any future amendments, revisions or modifications of statutes incorporated herein are intended to be made a part of this subchapter in order to secure uniform statewide regulation of the sale of alcohol beverages.

5.04(2) GENERAL LICENSING REQUIREMENTS. (a) License or Permit: When Required. No person may sell, manufacture, rectify, brew or engage in any other activity for which this subchapter provides a license, permit, or other type of authorization without holding the appropriate license, permit or authorization issued under this section.

5.04(2)(b) License or Permits Issued in Violation of Subchapter. Except as otherwise specifically provided in Ch. 125, Wis. Stats., no license or permit may be issued to any person except as provided in this subchapter. Any license or permit issued in violation of this section is void.

5.04(2)(c) Applications for Licenses and Permits. Each application form shall require all of the following information: 1. A history of the applicant relevant to the applicant's fitness to hold a license or permit.

5.04(2)(c)1. The kind of license or permit for which the applicant is applying.

5.04(2)(c)2. The premises where alcohol beverages will be sold or stored or both.

5.04(2)(c)3. If the applicant is a corporation, the identity of the corporate officers and agent. If the applicant is a limited liability company, the identity of the company members or managers and agents.

5.04(2)(c)4. The applicant's trade name, if any.

5.04(2)(c)5. Any other information required by this section.

5.04(2)(d) Place of Filing Applications. 1. Each application for a license, other than a manager's or operator's license, shall be sworn to by the applicant. The applicant shall file the application for a license with the Village Clerk/Treasurer.

5.04(2)(d)2. The applicant shall file the application for a permit with the Wisconsin Department of Revenue.

5.04(2)(e) Time of Filing and Issuance. 1. Except as provided in subs. 2. And 3., all applications for licenses to sell alcohol beverages shall be filed with the Village Clerk at least 15 days prior to the granting of the license.

5.04(2)(e)2. For licenses issued under §125.26(6), Wis. Stats., for a picnic or other gathering lasting less than 4 days, the Village Board shall establish the time, prior to the granting of a license for same, by which the application shall be filed with the Village Clerk.

5.04(2)(f) Publication of Application for License. The Village Clerk shall publish each application for a Class "A", Class "B", "Class A", "Class B" or "Class C" license, except licenses under §§125.26(6) and 125.51(10), Wis. Stats., prior to issuance in a newspaper in accordance with the provisions of §125.04(3)(g), Wis. Stats.

5.04(2)(g) Subsequent Changes. Within 10 days of any change in any fact set out in an application for a license or permit to sell alcohol beverages, the license or permittee shall file with the Village Clerk a written description of the changed fact.

5.04(2)(h) Records. 1. Any person may inspect applications for licenses to sell alcohol beverages within the Village of Lomira.

5.04(2)(h)2. The Village Clerk/Treasurer shall retain all applications made to the Village for licenses to sell alcohol beverages.

5.04(2)(h)3. The Village Clerk/Treasurer may destroy all applications more than 4 years old which have been retained under sub. 2.

5.04(2)(k) List of Licensees. By July 15 of each year the Village Clerk/Treasurer shall mail to the Wisconsin Department of Revenue a list containing the name, address and trade name of each person holding a license issued by the Village, other than a manager's or operator's license or a license issued under §125.26(6), Wis. Stats., the type of license held and, if the person holding the license is a corporation or limited liability company, the name of the agent appointed under §125.04(6), Wis. Stats.

5.04(2)(L) Fees Paid to Village Clerk/Treasurer. No license shall be issued hereunder until the applicant shall first have paid to the Village Clerk/Treasurer the fee or fees as herein required. On applications concerning premises where construction is not complete, the fee shall be paid within 5 days of the granting of said license and upon payment of said fee, said license shall remain in effect for the license year.

5.04(3) QUALIFICATIONS FOR LICENSES AND PERMITS. (a) Natural Persons. Licenses and permits related to alcohol beverages, issued to natural persons under this subchapter, may be issued only to persons who fulfill all of the following requirements:

5.04(3)(a)1. Do Not have an arrest or conviction record, subject to §§111.321, 111.322 and 111.335, Wis. Stats.

5.04(3)(a)2. Have been residents of this state continuously for at least 90 days prior to the date of application.

5.04(3)(a)3. Have attained the legal drinking age.

5.04(3)(a)4. Have submitted proof under §77.61(11), Wis. Stats.

5.04(3)(b) Criminal Offenders. No license or permit related to alcohol beverages may, subject to §111.321, 111.322 and 111.335, Wis. Stats., be issued under this section to any person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned.

5.04(3)(c) Corporations and Limited Liability Companies. No license or permit may be issued to any corporation or limited liability company unless that entity meets the qualifications under pars. (a)1. and 4. and (b), unless the agent of the entity appointed under §125.04(6), Wis. Stats., and the officers and directors, or members or managers, of the entity meet the qualifications of pars. (a)1. and 3. and (b) and unless the agent of the entity appointed under §125.04(6), Wis. Stats., meets the qualifications under par. (a)2. The requirement that the entity meet the qualifications under pars. (a)1. and (b) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

5.04(3)(d) Tax Delinquencies. No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the Village are delinquent or unpaid. 1. No initial or renewal license under this section shall be granted for any premise for which taxes, assessments or other claims to the state are delinquent and unpaid.

5.04(3)(d)2. No initial or renewal license under this section shall be granted to any person delinquent in payment to the state of any taxes owed.

CLASSES OF LICENSE(S) AND FEES. There shall be the classes of license, as enumerated herein, which when issued by the Village Clerk/Treasurer under the authority of the Village Board, after payment of the appropriate fee as hereunder specified, shall permit the holder to sell, deal or traffic in fermented malt beverages or intoxicating liquor as provided herein and in the state statutes. The classes and denominations of licenses and the fees specified therefor shall be subject to annual review by the Village Board. The Village Board is hereby authorized to annually review said classes, denominations and the fees therefor and no later than March 15, in each year, after conducting a hearing on same, increase or decrease said fees by resolution as the Board in its discretion deems to be reasonable, subject to the maximum limitations on said fees as set forth from time to time in the Wisconsin State Statutes. In the event said fees are not changed as provided for above, the fees shall remain the same the prior year's fees.

5.05(1)(a) FERMENTED MALT BEVERAGES. "Class A" License.

5.05(1)(a)1. A "Class A" license issued under §125.25, WI Stats. authorizes the retail sale of fermented malt beverages for consumption off the premises where sold and in original packages, bottles and containers. A license may be issued every July 1. That license will expire on the following June 30.

5.05(1)(a)2. Except as provided under Wis. Stat., Sec. 125.69, "Class A" licenses may be issued to any person qualified under Wis. Stat., Sec. 125.04(5), except a person acting as an agent for or in the employ of another. The number of persons and places that may be granted retail "Class A" licenses in the Village shall be limited as follows: one license may be granted and issued for each four hundred inhabitants, or a fraction thereof, in the Village. Such population is to be determined by the last preceding national census or estimate made annually by the Department of Administration (Ordinance 285, 2015).

5.05(1)(a)3. Beginning on May 5, 1994, A Class A license may not be issued to a person holding a wholesaler's license issued under §125.28, WI Stats or to a person who has a direct or indirect ownership interest in a premises operating under a wholesaler's license issued under §125.28, WI Stats.

5.05(1)(a)4. "Class A" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in Wis. Stat., Sec. 125.04(12). The premises shall be (a) a building used for retail sales of liquor and related products or; (b) a room or area used for the display and retail sale of liquor or related products. If the premises is a room, or an area in a larger room also selling non-liquor items, the licensee shall do one or both of the following:

5.05(1)(a)4.a Implement a crowd-control or other suitable physical barrier to preclude access to the merchandise area for the sale of intoxicating liquor and/or fermented malt beverage during "No Sales Hours" and an electronic Point of Sale "POS" system to preclude the sale of intoxicating liquor products during "No Sales Hours".

5.05(1)(a)4.b Construct a six foot high wood or metal gate that shall cordon the liquor display area from public during "No Sales Hours".

5.05(1)(a)5. Miscellaneous Provisions

5.05(1)(a)5.a “No Sales Hours” shall be those hours when the sale of intoxicating liquors is prohibited by Wis. Stats., 125.68(4)(b). (Ord. 270, 2012)

5.05(1)(a)5.b Unless the licensee employs a crowd-control barrier or other suitable barrier and an electronic POS system as described in Chapter 5.05(2)(d)(3)(a) above, all Display Coolers shall be locked during “No Sales Hours”.

5.05(1)(a)5.c Unless the licensee employs a crowd-control barrier or other suitable barrier and an electronic POS system as described in Chapter 5.05(2)(d)(3)(a) above, all other displays shall be secured by a six foot wood or metal fence during “No Sales Hours”, or taken off of display during “No Sales Hours”.

5.05(1)(a)5.d Any Single Violation of “After Hours Sales”, or “Sales to Underage Persons”, or any other State of Wisconsin Statutes or Local Ordinances shall be grounds for revocation of the license.

5.05(1)(a)6. The fee for a Class “A” license shall be determined by the Village Board in and by the adoption of a resolution providing for same. A license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

5.05(1)(b) Class “B” Licenses. A Class “B” license issued under §125.26, Wis. Stats., is for the sale of fermented malt beverages from premises within the municipality and may authorize an official or body of the municipality to issue temporary Class “B” licenses under §125.26(6), Wis. Stats. A Class “B” license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. A license may be issued after July 1. That license shall expire on the following June 30. Persons holding a Class “B” license may sell beverages containing less than 0.5% of alcohol by volume without obtaining a license under §66.053(1), Wis. Stats.

5.05(1)(b)1. Class “B” licenses may be issued to any person qualified under §125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least 6 months before the date of application. A Class “B” license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this subchapter.

5.05(1)(b)2. Except as provided in §125.31, Wis. Stats. Class “B” licenses may not be issued to brewers. a. Except as provided in §125.29, Wis. Stats., beginning on May 5, 1994, a Class “B” license may not be issued to a person holding a wholesaler’s license issued under §125.28, Wis. Stats., or to a person who has a direct or indirect ownership interest in a premises operating under a wholesaler’s license issued under §125.28, Wis. Stats.

5.05(1)(b)2.b Notwithstanding subd.2.a., a person who holds a Class “B” license and a wholesaler’s license issued under §125.28, Wis. Stats., both of which licenses were issued before May 5, 1994, may, subject to §§125.04 and 125.12, Wis. Stats., renew and continue to hold both licenses.

5.05(1)(b)2.c If a person holding a Class “B” license and a wholesaler’s license under subd. 2.b. fails to renew either license, is denied renewal of either license under §125.12,

Wis. Stats., or has either license suspended or revoked under §125.12, Wis Stats., the person is subject to subd 2.a.

5.05(1)(b)2.d Notwithstanding §§125.04(3)(a)3. And (9), Wis. Stats., a Class “B” license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of fermented malt beverages in the guest’s room which is not part of the Class “B” premises. Fermented malt beverages furnished under this subsection shall be subject to the restrictions and requirements of §125.26(2m), Wis. Stats.

5.05(1)(b)3. Class “B” licenses shall particularly describe the premises for which issued and are not transferable, except as provided in §125.04(12), Wis. Stats., A Class “B” license is subject to revocation for violation of any of the terms or provisions thereof.

5.05(1)(b)4. The fee for a Class “B” license issued hereunder may not exceed \$100 per year. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued. Class “B” licenses may be issued at any time for a period of 6 months in any calendar year, for which 50% of the license fee shall be paid. Such licenses are not renewable during the calendar year in which issued.

5.05(1)(b)5. Temporary Class “B” licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least 6 months before the date of application and to posts of veterans’ organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society.

5.05(1)(b)5.a The amount of the fee for the license shall be determined by the Village Board but may not exceed \$10.

The following fees in Chapter 5, Business Regulations, of the Lomira Municipal Code, for certain local licenses are revised as follows:

Class A Liquor License: \$200/year;

Class A Fermented Malt Beverage License: \$100/year;

Class B Liquor License: \$200/year;

Class B Fermented Malt Beverage License: \$100/year;

Operator’s License: \$25/year;

5.05(1)(b)5.b The Village Board may authorize an official or body to issue temporary Class “B” licenses. Said official or body may, upon issuance of any temporary Class “B” license, authorize the licensee to permit underage persons to be on the premises for which the license is issued.

5.05(1)(b)5.c The Village Board may issue a temporary Class “B” license for premises that are covered by a “Class B” permit issued under §125.51 (5) (b) 2, Wis. Stats., if the applicant meets the requirements of this subsection.

5.05(1)(c) Class “B” Permit. A Class “B” permit issued under §125.27, Wis. Stats.
5.05(1)(d) Industrial Fermented Malt Beverages Permit. A fermented malt beverages permit issued under §124.275, Wis. Stats.

5.05(1)(e) Wholesaler’s Licenses. In accordance with §125.28, Wis. Stats., the Village Board may issue licenses to wholesalers for the sale of fermented malt beverages from premises within the Village. A wholesaler’s license authorizes sales of fermented malt beverages only in original packages or containers to retailers or wholesalers, not to be consumed in or about the premises where sold. In the case of a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, the wholesaler’s license shall be issued by the governing body of the municipality in which some part of the wholesaler’s business is conducted in this state. No additional license or permit is required for the solicitation of orders for sale to or by licensed wholesalers.

5.05(1)(e)1. A wholesaler’s license may be issued to any person qualified under §125.04 (5), Wis. Stats., except a person acting as an agent for, or in the employ of, another person. Notwithstanding §125.04(5)(a)5., Wis. Stats., a person is not required to complete a responsible beverage server training course to be qualified for a license under this section.

5.05(1)(e)2. Except as provided in subd. 3. and §125.29, Wis. Stats., beginning on May 5, 1994, a wholesaler’s license may not be issued to any of the following: a. A person holding one or more of the following licenses or permits:

- i. A Class “A” license issued under §125.25, Wis. Stats.
- ii. A Class “B” license issued under §125.26, Wis. Stats.
- iii. A Class “B” permit issued under §125.27, Wis. Stats.
- iv. An industrial fermented malt beverages permit issued under §125.275, Wis. Stats.

5.05(1)(e)2.b A person who has a direct or indirect ownership interest in a premises operating under one or more of the licenses or permits listed in subd. 2.a.i. to iv.

5.05(1)(e)3. A person who holds a wholesaler’s license and a license or permit specified in subd. 2.a., all of which licenses or permits were issued before May 5, 1994, may, subject to §§125.04 and 125.12, Wis. Stats., renew and continue to hold all of the licenses or permits.

5.05(1)(e)4. If a person holding a wholesaler’s license and a license or permit under subd. 1. fails to renew a license or permit, is denied renewal of a license or permit under §125.12, Wis. Stats., or has one of the licenses or permits suspended or revoked under §125.12, Wis. Stats., the person is subject to subd. 3. with respect to holding a license or permit of that type after the failure or denial of renewal or the revocation or suspension of the license or permit.

5.05(1)(e)5. The amount of the license fee shall be determined by the Village Board but may not exceed \$25 per year or fractional part thereof.

5.05(1)(f) Brewers. Permits and licenses issued under §§125.29 and 125.30, Wis. Stat.

5.05(1)(g) Issuance of Operator's Licenses. 1. Authorization. The Village Board may issue operator's licenses for the purpose of complying with §§125.32 (2) and 125.68 (2), Wis. Stats. Operators' licenses may be issued only upon written application.

5.05(1)(g)2. Validity. Operators' licenses issued by the Village Board are valid only within the Village of Lomira.

5.05(1)(g)3. Fee. The fee for an operator's license shall be as follows:\$25/year period and shall expire on June 30 of the following year.

5.05(1)(g)4. Temporary License. The Village Board may issue a temporary operator's license under the terms of this subsection except that: a. This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.

5.05(1)(g)4.b No person may hold more than one license of this kind per year.

5.05(1)(g)4.c The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.

5.05(1)(g)4.d The fee for a temporary operator's license shall be \$5.

5.05(1)(g)5. Provisional License. A provisional license may be issued only to a person who has applied for an operator's license under this subsection. a. A provisional license may not be issued to any person who has been denied a license under this subsection.

5.05(1)(g)5.b The fee for a provisional license shall be \$15.

5.05(1)(g)5.c A provisional license expires 60 days after its issuance or when a license under this subsection is issued to the holder, whichever is sooner.

5.05(1)(g)5.d The Village Clerk/Treasurer may revoke the license if s/he discovers that the holder of the license made a false statement on the application.

5.05(1)(g)5.e Except as provided in §125.17(6)(b), Wis. Stats., the Village Board may only issue an operator's license upon an applicant's successful completion of a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the Wisconsin Departments of Revenue or Education, or unless the applicant fulfills one of the requirements under §125.17(6)(a), Wis. Stats.

5.05(1)(g)5.f The Village Board shall issue a provisional operator's license to a person who is enrolled in a training course under par. a and who meets the standards established by the Village of Lomira by ordinance, if any. The Village Board shall revoke said license if the applicant fails successfully to complete the course in which he or she enrolls.

5.05(1)(h) Issuance of Managers' Licenses. 1. Authorization. Under authority granted by §125.18(1), Wis. Stats., the Village Board may provide for the issuance of managers' licenses. Managers' licenses may not be required other than for the purpose of complying

with §§125.32 (1) and 125.68 (1), Wis. Stats. Managers' licenses may be issued only upon written application.

5.05(1)(h)2. Validity. Managers' licenses are valid only within the Village of Lomira.

5.05(1)(h)3. Fee. The fee for the manager's license shall be \$25 per year. The license shall be valid for no more than 1 year and shall expire on June 30.

5.05(1)(j) Provisional Retail Licenses. 1. The Village Clerk may issue a provisional retail license only to a person who has applied for a Class "A", Class "B", "Class A", "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes.

5.05(1)(j)2. The fee for a provisional retail license shall be \$15.

5.05(1)(j)3. A provisional retail license expires 60 days after its issuance or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued to the holder, whichever is sooner. The Village Clerk/Treasurer may revoke the license if it is discovered that the holder of the license made a false statement on the application.

5.05(1)(j)4. Notwithstanding subd. 1., the Village Clerk/Treasurer may not issue a provisional "Class B" license if the municipality's quota under §125.5(4), Wis. Stats., prohibits the Village from issuing a "Class B" license.

5.05(1)(j)5. No person may hold more than one provisional retail license for each type of license applied for by the holder per year. A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. A license may be issued after July 1. That license shall expire on the following June 30. Persons holding a Class "B" license may sell beverages containing less than 0.5% of alcohol by volume without obtaining a license under §66.053 (1), Wis. Stats.

5.05(2) INTOXICATING LIQUOR. (a) Village Authority. Under authority contained in §125.51(1)(a), the Village Board may grant and issue "Class A" and "Class B" licenses for retail sales of intoxicating liquor, and "Class C" licenses for retail sales of wine, from premises within the Village to persons entitled to a license under this subchapter as deemed proper and may authorize an official or body of the Village to issue temporary "Class B" licenses under §125.51(10), Wis. Stats. No "Class B" license may be issued to a winery under §125.51(3) (am), Wis. Stats., unless the winery has been issued a permit under §125.53, Wis. Stats., and the winery is capable of producing at least 5,000 gallons of wine per year in no more than 2 locations.

5.05(2)(b) Prohibited Conduct by Village Board. No member of the Village Board may sell or offer to sell to any person holding or applying for a license under this section any bond, material, product or thing which may be used by the licensee in carrying on the business subject to licensure.

5.05(2)(c) Annual Review by Village Board. 1. The Village Board, or a duly authorized committee of the Village Board, shall meet not later than May 15 annually, and be in session from day to day thereafter so long as may be necessary, for the purpose of acting upon license applications filed with it on or before April 15.

5.05(2)(c)2. The Village Board or the committee shall grant, issue or deny each application not later than June 15 for the ensuing license year. Licenses may be granted for issuance at a later date when the applicant has complied with all requirements for the issuance of the license.

5.05(2)(c)3. The Village Board or the committee may accept and act upon any application filed at any other time. The Village Board or the committee may not deny an application for renewal of an existing license unless a statement of the reason for the denial is included in its clerk's minutes.

5.05(2)(c)4. Except as provided under §125.69, Wis. Stats., "Class A" licenses may be issued to any person qualified under §125.04 (5), except a person acting as an agent for or in the employ of another. The number of persons and places that may be granted retail Class A liquor licenses in the Village shall be limited as follows: one licenses may be granted and issued for each one thousand inhabitants, or a fraction thereof, in the Village. Such population is to be determined by the last preceding national census or estimate made annually by the Department of Administration.

5.05(2)(d) Retail "Class A" License

5.05(2)(d)1. A "Class A" license authorizes the retail sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers.

5.05(2)(d)2. Except as provided under Wis. Stat., Sec. 125.69, "Class A" licenses may be issued to any person qualified under Wis. Stat., Sec. 125.04(5), except as a person acting as an agent for or in the employ of another. The number of persons and places that may be granted retail "Class A" licenses in the Village shall be limited as follows: one license may be granted and issued for each four hundred inhabitants, or a fraction thereof, in the Village. Such population is to be determined by the last preceding national census or estimate made annually by the Department of Administration (Ordinance 285, 2015).

5.05(2)(d)3. "Class A" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in Wis. Stat., Sec. 125.04(12). The premises shall be (a) a building used for retail sales of liquor and related products or ; (b) a room or area used for the display and retail sale of liquor or related products. If the premises is a room, or an area in a larger room also selling non-liquor items, the licensee shall do one or both of the following:

5.05(2)(d)3.a Implement a crowd-control or other suitable physical barrier to preclude access to the merchandise area for the sale of intoxicating liquor and/or fermented malt beverage during "No Sales Hours" and an electronic Point of Sale "POS" system to preclude the sale of intoxicating liquor products during "No Sales Hours".

5.05(2)(d)3.b Construct a six foot high wood or metal gate that shall cordon the liquor display area from the public during "No Sales Hours".

5.05(2)(d)4. Miscellaneous Provisions

5.05(2)(d)4.a "No Sales Hours" shall be those hours when the sale of intoxicating liquors is prohibited by Wis. Stats., 125.68(4)(b). (Ord 270, 2012)

5.05(2)(d)4.b Unless the licensee employs a crowd-control barrier or other suitable barrier and an electronic POS system as described in Chapter 5.05(2)(d)(3)(a) above, all Display Coolers shall be locked during “No Sales Hours”.

5.05(2)(d)4.c Unless the licensee employs a crowd-control barrier or other suitable barrier and an electronic POS system as described in Chapter 5.05(2)(d)(3)(a) above, all other displays shall be secured by a six foot wood or metal fence during “No Sales Hours”, or taken off of display during “No Sales Hours”.

5.05(2)(d)4.d Any Single Violation of “After Hours Sales”, or “Sales to Underage Persons”, or any other State of Wisconsin Statutes or Local Ordinances shall be grounds for revocation of the license.

5.05(2)(e) Retail “Class B” License. The Village Board, through enactment by separate ordinance, may elect to issue a “Class B” license under §125.51(3)(a) and (am) or under §125.51(3)(b), Wis. Stats.

(em) The election made by the Village Board under par. (e) shall by reference be made a part of this subchapter with the same force and effect as if fully set forth herein.

5.05(2)(e)1. Notwithstanding par. (em) and §§125.04(3)(a)3. And (9), Wis. Stats., a “Class B” license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest’s room which is not part of the “Class B” premises. Intoxicating liquor furnished under this subsection shall be subject to the restrictions and requirements of §125.55(bm), Wis. Stats.

5.05(2)(e)2. Except as provided under §125.69, Wis. Stats., a “Class B” license may be issued to any person qualified under §125.04(5), Wis. Stats., except a person acting as an agent for or in the employ of another.

5.05(2)(e)3 a. Except as provided in subds. b. and c., the annual fee for a “Class B” license shall be the same for all “Class B” licenses, except that the minimum fee shall be \$50 and the maximum fee shall be \$500. The minimum fee does not apply to licenses issued to bona fide clubs and lodges situated and incorporated in the state for at least 6 years.

5.05(2)(e)3.b The fee for an initial issuance of a reserve “Class B” license, as defined in §125.51(4)(a)4., Wis. Stats., is established in an amount not less than \$10,000, except that the fee for an initial issuance of a reserve “Class B” license to a bona fide club or lodge situated and incorporated in the state for at least 6 years is the fee established under subd. 3.a. for such a club or lodge. The fee under this subdivision is an addition to any other fee required under this subchapter or Ch. 125, Wis. Stats. The annual fee for renewal of a reserve “Class B” license, as defined in §125.51(4)(a)1., Wis. Stats., is the fee established under subd. 3.a.

5.05(2)(e)3.c The Village Board shall establish the annual fee for a “Class B” license issued under §125.51(4)(v), Wis. Stats. The initial fee may be different from the annual fee to renew the license.

5.05(2)(e)3.d A “Class B” license may be issued only to a holder of a retail Class “B” license to sell fermented malt beverages unless the “Class B” license is the kind of “Class B” license specified under §125.51(3)(am), Wis. Stats.

5.05(2)(e)4. The quotas on “Class B” licenses issued by the Village under the provisions of this paragraph shall be determined and established in accordance with §125.51(4), Wis. Stats.

5.05(2)(e)5. In accordance with §125.51(3)(e)2., Wis. Stats., the initial fee of \$10,000 for an initial issuance of a reserve “Class B” license is hereby established.

5.05(2)(f) Retail “Class C” License. A “Class C” license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold. In this subsection “barroom” means a room that is primarily used for the sale or consumption of alcohol beverages.

5.05(2)(f)1. A “Class C” license may be issued to a person qualified under §125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom if the Village’s quota under §125.51(4), Wis. Stats., prohibits the issuing a “Class B” license to that person. A “Class C” license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

5.05(2)(f)2. The annual fee for a “Class C” license shall be determined by the municipal governing body issuing the license. The fee shall not exceed \$100 and shall be the same for all “Class C” licenses.

5.05(2)(g) Retail “Class B” Permits. A retail “Class permit issued under §125.51(5), Wis. Stats.

5.05(2)(h) Connecting Premises. Except in the case of hotels, no person may hold both a “Class A” license and either a “Class B” license or permit, a Class “B” license or permit or a “Class C” license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

5.05(2)(i) Licenses for Less than One Year. 1. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

5.05(2)(i)2. Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

5.05(2)(j) Temporary Licenses. Notwithstanding §125.68(3), Wis. Stats., temporary “Class B” licenses may be issued under §125.51(10), Wis. Stats.

5.05(2)(k) Intoxicating Liquor Permits. See permits issued under Subch. III of Ch. 125, Wis. Stats.

5.09

GENERAL RESTRICTIONS AND REQUIREMENTS. (1) MANAGERS’ LICENSES; “CLASS B” AND “CLASS C” PREMISES. (a) If the Village Board elects to issued managers’ licenses under §125.18, Wis. Stats., no person may manage premises operating under a “Class B” license or permit or a “Class C” license unless the person is the license

or permittee, an agent of a corporation or limited liability company appointed as required by §125.04(6), Wis. Stats., or the holder of a manager's license.

5.09(1)(b) A person manages premises if that person has responsibility or authority as provided for in §§125.68(1)(a)1. through 3., Wis. Stats.

5.09(2) OPERATORS' LICENSES; "CLASS A", "CLASS B" OR "CLASS C" PREMISES. Except as provided under §125.07(3)(a)10. Wis. Stats., no premises operated under a "Class A" or "Class C" license or under a "Class B" license or permit may be open for business unless there is upon the premises either the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons selling or serving any intoxicating liquor to customers. For the purpose of this subsection, any person holding a manager's license issued under §125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve or sell alcohol beverages in any place operated under a "Class A" or "Class C" license or under a "Class B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee or agent of a person holding an operator's license, who is on the premises at the time of the service.

(2m) USE BY ANOTHER PROHIBITED. (a) No person may allow another to use his or her "Class A" or "Class C" license or "Class B" license or permit to sell alcohol beverages.

5.09(2)(b) The license or permit of a person who violates par. (a) shall be revoked.

5.09(2)(c) The license or permit application and application fee shall not be transferred from one applicant to another.

5.09(2)(d) Upon license or permit application denial or revocation, the Village Board shall require applicant to retake a responsible beverage training course and provide proof of completion with a completed license or permit application for the following renewal year.

5.09(3) RESTRICTIONS ON LOCATION. No "Class A" or "Class B" license or permit may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of the governing body of the municipality in which the premises is located. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The prohibition in this subsection does not apply to any of the following:

5.09(3)(a) Premises covered by a license or permit on June 30, 1947

5.09(3)(b) Premises covered by a license or permit prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

5.09(3)(c) A restaurant located within 300 feet of a church or school. This paragraph shall only apply to restaurants in which the sale of alcohol beverages accounts for less than 50% of their gross receipts.

5.09(4) CLOSING HOURS. (a) Wholesalers. No premises for which a wholesale intoxicating liquor permit has been issued may remain open for the sale of intoxicating liquor between the hours of 5 p.m. and 8 a.m., except on Saturday the premises may remain open until 9 p.m.

5.09(4)(b) “Class A” Retailers. No premises for which a “Class A” license or permit has been issued may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 8 a.m. Monday through Saturday or 9:00 p.m. to 10 a.m. Sunday.

5.09(4)(c) “Class B” and Class C” Retailers. 1. No premises for which a “Class B” license or permit or a “Class C” license has been issued may remain open between the hours of 2 a.m. and 6 a.m., except as otherwise provided in this subdivision and subd. 3. On January 1 premises operating under a “Class B” license or permit are not required to close. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6 a.m. This subdivision does not apply to a “Class B” license issued to a winery under §125.51(3)(am), Wis. Stats.

5.09(4)(c)2. Between 12 midnight and 6 a.m. no person may sell intoxicating liquor on “Class B” licensed premises in an original unopened package, container or bottle or for consumption away from the premises. A municipal governing body may, by ordinance, impose more restrictive hours than are provided in this subdivision. This subdivision does not apply to a “Class B” license issued to a winery under s. 125.51(3)(am), Wis. Stats.

2m. No premises for which a “Class B” license has been issued under §125.51(3)(am), Wis. Stats., may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 8 a.m.

5.09(4)(c)3. Hotels and restaurants the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor during the closing hours under subd. 1.

5.09(5) RESTAURANT SANITATION RULES. No applicant may obtain a “Class B” license or permit or a “Class C” license unless the premises complies with the rules promulgated by the Wisconsin Department of Health and Family Services governing sanitation in restaurants. However, said department may not restrict the serving of cheese without charge in individual portions to customers as permitted by §254.61 (5), Wis. Stats.

5.09(6) SALE FROM ORIGINAL CONTAINER. (a) A person convicted of any of the following prohibited activities shall be fined not less than \$150 nor more than \$500 or imprisoned not less than 60 days nor more than 6 months or both:

5.09(6)(a)1 Diluting any intoxicating liquor for purposes of sale as undiluted intoxicating liquor.

5.09(6)(a)2 Refilling any original container which had previously been used for intoxicating liquor containing 21% or more of alcohol by volume.

5.09(6)(a)3 Possessing diluted intoxicating liquor or refilled original containers on any premises covered by a “Class A” or “Class C” license or “Class B” license or permit.

5.09(6)(b) Possession of an original container which contains diluted intoxicating liquor or which has been refilled is prima facie evidence of intent to violate this subsection.

5.09(7) LABELS; CONTENTS; PACKAGING. See §125.68(9), Wis. Stats.

5.09(8) ADDITIONAL RESTRICTIONS. In addition to the restrictions and requirements imposed by the provisions of Ch. 125, Wis. Stats., and those provisions appearing elsewhere in this subchapter, the following restrictions and requirements shall apply to the issuance of licenses or permits under this subchapter:

5.09(8)(a) Intoxicating Liquor; Sale to Underage Person Prohibited. No license or permit holder hereunder and no keeper of any place of any name whatsoever for the sale of intoxicating liquors shall sell, vend, or in any way deal or traffic in, give away any such liquors in any quantity whatsoever to or with any person under the age of 21 years, whether upon written order of a parent or guardian, or in any other manner whatsoever.

5.09(8)(b) Intoxicating Liquor; Conditions of License. All retail Class “A” and “B” licenses granted hereunder shall be granted subject to the following conditions and all other conditions of this code, and subject to all other Ordinances and Regulations of this Village applicable thereto:

5.09(8)(b)1 Every applicant procuring a license hereby consents to the entry of any peace officer as defined in Ch. 176, Wis. Stats., or other public officers of the Village, at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there had in violation of Village ordinances or state laws and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such purposes and offenses.

5.09(8)(b)2 No retail Class “B” Licensee shall employ any person under 18 years of age to sell or serve intoxicating liquors in any part of the licensed premises. No intoxicating liquor shall be sold to any person under the age of 21 years.

5.09(8)(b)3 No club shall see any intoxicating liquor except to members and guests invited by members.

5.09(8)(b)4 Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on said premises.

5.09(8)5 No gambling or game of chance or any sort shall be permitted in any form upon the licensed premises.

5.09(8)(c) No license or permit shall be issued to any person who has lied, provided false or incomplete information or misinformation on application filed with the Village Clerk.

5.09(8)(d) No license or permit shall be issued to any person who has been convicted of underage consumption or possession of alcohol, any substance abuse including legal or illegal drugs or alcohol, convicted of any drug-related possession, use, manufacturing or selling of drugs, or driving under the influence of any alcohol or controlled substance until a two year period has elapsed from the most recent conviction.

5.09(8)(e) No license or permit shall be issued to any person who has arrests or convictions of charges related to the activities performed while bartending until a two year period has elapsed from the most recent conviction.

5.09(8)(f) No license or permit shall be issued to any person who has sold to an intoxicated person, sold after hours, sold or furnished alcohol to minors or gave away intoxicating liquor to evade provisions of the law until a two year period has elapsed from the most recent conviction.

5.09(8)(g) Transferability. Every license or permit issued pursuant to this subchapter for the sale of fermented malt beverages or intoxicating liquor may, upon authority so granted by the Village Board, and upon payment of a fee as shall, from time to time be established by the Village Board, be transferred from one premises to another within the Village of Lomira, but no licensee shall be entitled to more than one transfer in any one license year.

5.09(8)(g)1. The application and proceedings for such transfer shall be made and had in the same form and manner as the original application.

5.09(8)(g)2. Whenever a license is transferred the Village Clerk/Treasurer shall forthwith notify the Department of Revenue of such transfer.

5.09(8)(h) Obstructing View of Premises. 1. Full and Complete View. No premises licensed for the sale of intoxicating liquor at retail shall, during the days they are required to close or during the hours in which the sale of liquor is prohibited, obstruct by the use of curtains, blinds, screens or in any other manner, a full and complete view of the interior from the outside.

5.09(8)(h)2. During Hours of Sales. During the hours in which the sale of intoxicating liquor is permitted the premises shall be properly and adequately lighted. There shall be no partition, box, stall, screen, curtain or any other device which shall obstruct the view of said room from the general observations of persons; provided, however, that partitions, subdivisions or panels not higher than forty-eight inches from the floor shall not be construed as in conflict with the foregoing; and provided, however, retail Class "B" licenses shall entitle the holder thereof to serve such beverages in a separate room at banquets or dinners.

5.10 VIOLATIONS AND PENALTIES. Except as provided elsewhere in state statute or in this code, the penalty for a violation of any of the provisions of this subchapter shall be as provided in §125.11, Wis. Stats.

5.10(1) GENERAL PENALTY. Any person who violates any provision of this subchapter for which a specific penalty is not provided, shall be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Any license or permit issued to the person under this subchapter may be revoked by the court.

5.10(2) FELONY. If a person is convicted of a felony under this subchapter, in addition to the penalties provided for the felony, the court shall revoke any license or permit issued hereunder to said person.

(2m) A separate offense shall be deemed committed on each day on which a violation occurs or continues. (rn. fr. §5.04.250)

JUNK DEALERS, JUNK YARDS AND SALVAGE YARDS

5.15 JUNK DEALERS, JUNK YARDS AND SALVAGE YARDS. (1) DECLARATION OF PURPOSE AND PUBLIC NUISANCES. In order to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways and Village Streets, to preserve and enhance the scenic beauty of lands bordering public highways and Village Streets, to attract tourists, visitors and promote the prosperity, economic well-being and general welfare of the Village, it is declared to be in the public interest to regulate and restrict junk dealers and the establishment, operation and maintenance of junk yards within the Village. All junkyards in violation of this section are declared public nuisances.

5.15(2) DEFINITIONS. (a) “Automobile graveyard” means an establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Five (5) or more such vehicles constitute an automobile graveyard.

5.15(2)(b) “Industrial activities” mean those activities defined by s.84.31(2), Wis. Stats.

5.15(2)(c) “Junk” means any old or scrap metal, metal ally, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof.

515(2)(d) “Junkyard” means any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

5.15(2)(e) “Motor vehicle salvage dealer” means a person who purchases and resells motor vehicles for wrecking, processing, scrapping, recycling or dismantling purposes or who carries on or conducts the business of wrecking, processing, scrapping or dismantling motor vehicles or selling parts of motor vehicles so processed.

5.15(2)(f) “Motor vehicle salvage pool” means a person who is engaged primarily in the business of selling or distributing damaged motor vehicles at wholesale, whether or not the motor vehicles are owned by that person.

5.15(2)(g) “Scrap metal processor” means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for re-melting purposes.

5.15(2)(h) “Scrap metal processor” means a motor vehicle salvage dealer who sells no motor vehicles or motor vehicle parts and whose business is limited to a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for re-melting purposes.

- 5.15(3) **CONDITIONS FOR OPERATION.** No person, or corporation shall be allowed to keep, house, store or place in the Village any junk, such as all scrap iron, wrecked cars, junked cars, junked machinery, wrecked machinery, broken glass, junked trailers, wrecked trailers, bottles, jugs, rags, papers of all kinds, all scrap metals, and anything which from its worn condition renders it practically useless for the purpose for which it was made, and what is commonly classed as junk, unless they abide by the following:
- 5.15(3)(a) License Required. Such person, persons or corporation shall, on September 1 of each year, secure from the Village Board a license, at the cost of \$10 per year; payable to the Village Clerk/Treasurer.
- 5.15(3)(b) Businesses Located. It shall be the duty of the Village Board to decide where any person, persons or corporation, asking for a license to operate a junk yard, shall have his or her place of business located.
- 5.15(3)(c) Fencing Required. A business located and regulated under this section shall have a fence enclosure constructed of wood or metal within which all junk shall be stored and kept. Said fence shall be perfectly solid so as to keep all junk from view of any passerby, any adjoining property owners and operators. The fence shall be well constructed, well painted and maintained in neat appearance at all times. (rn.fr. §5.08.010)
- 5.15(3)(d) Motor Vehicle Salvage Dealer. A motor vehicle salvage dealer shall provide the Village Board with proof of compliance with §218.22, Wis. Stats.
- 5.15(3)(e) Storage of Junked Automobiles. See §175.25, Wis. Stats.
- 5.15(4) **VIOLATION AND PENALTY.** Any person, persons or corporation who within 30 days of having been properly notified by the Village Board, violates the provisions of this section shall upon conviction be fined not less than \$10, nor more than \$50 for each offense, and in default of payment of said fine shall be imprisoned in the county jail for a period not exceeding 30 days. Each day that junk, as herein defined, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense. (rn.fr. §5.08..020)

PEDDLERS, SOLICITORS, CONVASSERS AND TRANSIENT MERCHANTS

- 5.17 PEDDLERS, SOLICITORS, CONVASSERS AND TRANSIENT MERCHANTS. (1)
STATURY AUTHORITY. Pursuant to the authority contained in §66.083, Wis. Stats., the Village Board of Lomira enacts this section to regulate and control: (a) The retail sales, other than auction sales, made by transient merchants, as defined in §130.065(1m), 1987 Wis. Stats.
- 5.17(1)(b) The direct sales or solicitations within the Village by direct sellers or solicitors.
- 5.17(2) **REGISTRATION REQUIRED.** It shall be unlawful for any direct seller or solicitor to engage in directs sales or solicitations within the Village of Lomira without being registered for that purpose as provided herein.
- 5.17(3) **DEFINITIONS.** The following definitions shall apply to this section: (a) Direct Seller. Direct seller means any individual who, for himself/herself, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of

goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation and shall include, but shall not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

5.17(3)(b) Permanent Merchant. Permanent merchant means a direct seller who, for a least one year prior to the consideration of the application of this section to said merchant:

5.17(3)(b)1. Has continuously operated an established place of business in this Village.

5.17(3)(b)2. Has continuously resided in this Village and now does business from his/her residence.

5.17(3)(c) Solicitor. Solicitor means any individual who, for himself/herself, or for a partnership, association or corporation, charitable or otherwise, solicits, asks for, or requests contributions either in the form of cash or merchandise, at any location other than the permanent business place or residence of said individual, partnership, association or corporation.

5.17(3)(d) Goods. Goods shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

5.17(3)(e) Charitable Organization. Charitable organization shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation or one purporting to be such.

5.17(3)(f) Clerk/Treasurer. Clerk shall mean the Lomira Village Clerk/Treasurer.

5.17(3)(g) Transient Merchant. Transient merchant shall include any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the Village of Lomira, or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said Village and who, in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad box car, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the Village for exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader or auctioneer.

5.17(3)(h) Peddlers. Peddlers shall include any person, whether a resident of the Village of Lomira or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

- 5.17(4) EXEMPTIONS. The following shall be exempt from all provisions of this section: (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- 5.17(4)(b) Any person selling goods at wholesale to dealers in such goods.
- 5.17(4)(c) Any state resident selling produce or other perishable products at retail or wholesale.
- 5.17(4)(d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within the county and who delivers such goods in their regular course of business.
- 5.17(4)(e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.
- 5.17(4)(f) Any person who has had, or one who represents a company which has had, a prior business transactions, such as prior sale or credit arrangement, with the prospective customer.
- 5.17(4)(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
- 5.17(4)(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- 5.17(4)(k) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Clerk/Treasurer proof that such charitable organization is registered under §440.41, Wis. Stats. Any charitable organization not registered under said statute or which is exempt from that statute's registration requirements, shall be required to register under this section.
- 5.17(4)(L) Any person who claims to be a permanent merchant, but against whom a complaint has been made to the Village Clerk/Treasurer that such a person is a transient merchant; provided that there is submitted to the Village Clerk/Treasurer, proof that such person has leased for at least one year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in the Village for at least one year prior to the date the complaint was made.
- 5.17(4)(m) Any person or group participating in a special event sanctioned by the Village.
- 5.17(5) REGISTRATION. Applicants for registration must complete and return to the Chief of Police a registration form as shall be furnished by the Village Clerk/Treasurer which shall require the following;
- 5.17(5)(a) Name, permanent address and telephone number.
- 5.17(5)(b) Age, height, weight, color of hair and eyes

5.17(5)(c) Name, address and telephone number of the person, firm, association or corporation that the direct seller or solicitor represents or is employed by, or whose merchandise is being sold or solicited for.

5.17(5)(d) Temporary address and telephone number from which business will be conducted, if any.

5.17(5)(e) Nature of the business to be conducted and a brief description of the goods or services offered.

5.17(5)(f) Proposed method of delivery of goods, if applicable.

5.17(5)(g) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business.

5.17(5)(h) Last cities, villages and towns, not to exceed three, where applicant conducted similar business.

5.17(5)(k) Place where applicant can be contacted for at least seven days after leaving this Village.

5.17(5)(L) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

5.17(6) APPLICATION INFORMATION. Applicants shall present to the Village Clerk/Treasurer for examination:

5.17(6)(a) A driver's license or some other proof of identity as may be reasonably required.

5.17(6)(b) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities.

5.17(6)(c) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

5.17(6)(d) The applicant may also be required to obtain a Conditional Use Permit (CUP), in accordance with Village zoning codes. Such CUP must be applied for in accordance with the provisions of ch. 18 this code, and must be presented to the Village Clerk/Treasurer at the time of making application to do business in the Village as a direct seller or solicitor.

5.17(7) REGISTRATION FEE AND PROCESS. (a) At the time the registration is returned, a fee of \$100 for each day the applicant wishes to do business in the Village as a direct seller or solicitor, shall be paid to the Clerk/Treasurer.

5.17(7)(b) The applicant shall sign a statement appointing The Village Clerk/Treasurer his/her agent to accept service of process in any civil action brought against the applicant

arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

5.17(7)(c) Upon payment of said fee and the signing of said statement, the Village Clerk/Treasurer shall, with Village Board approval, register the applicant as a direct seller or solicitor and date the entry. Said nontransferable registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in subs.6(b) below.

5.17(7)(d) None of the registration fees, provided for by this section shall be applied as to occasion an undue burden upon interstate commerce. In any case where as registration fee is believed by a registrant for registration to place an undue burden upon such commerce, the registrant may apply to the Village Clerk/Treasurer for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce.

5.17(7)(d)1. Such application may be made before, at, or within six months after payment of the prescribed registration fee. The registrant shall, by affidavit and supporting testimony, show his/her method of business and the gross volume of business and such other information as the Village Clerk/Treasurer shall deem necessary in order to determine the extent, if any, of undue burden on such commerce.

5.17(7)(d)2. The Village Clerk/Treasurer shall then conduct an investigation, comparing registrant's business with other businesses of like nature and shall make findings of fact from which the Village Clerk/Treasurer shall determine whether or not the fee fixed by this section is unfair, unreasonable or discriminatory as to the registrant's business and shall fix as the registration fee for the registrant, an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

2m. In fixing the fee to be charged, the Village Clerk/Treasurer shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by this section.

5.17(8) INVESTIGATION. (a) Upon receipt of each application, the Village Clerk/Treasurer shall refer it immediately to the Chief of Police, who shall make a complete investigation of the statements made in such registration. The applicant will pay \$10 to the Village to cover the cost incurred for such investigation.

5.17(8)(b) The Village Clerk/Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that : 1. The application contains any material omission or materially inaccurate statement;

5.17(8)(b)2. Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns in which the applicant conducted similar business;

5.17(8)(b)3. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or

5.17(8)(b)4. The applicant failed to comply with any applicable provision of sec. (5) above.

5.17(9) APPEAL. Any person denied registration may appeal the denial through the appeal procedure as may be provided by ordinance of the Village Board or, in one has been adopted, under the provisions of §§68.07 through 68.16, Wis. Stats.

5.17(10) PROHIBITED PRACTICES. A direct seller or solicitor shall be prohibited from: (a) Calling at any dwelling or other place between the hours of 9:00 P.M. and 10 A.M. except by appointment;

5.17(10)(b) Calling at any dwelling or other place where a sign is displayed bearing the words “No Peddlers”, “No Solicitors” or words of similar meaning;

5.17(10)(c) Calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

5.17(10)(d) Misrepresenting or making false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purposes of the direct seller or solicitor’s visit, the direct seller or solicitor’s identity or the identity of the organization the direct seller or solicitor represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered or funds solicited will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

5.17(10)(e) Impeding the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

5.17(10)(f) Making any loud noises or using any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside of a one hundred foot radius of the source.

5.17(10)(g) Allowing rubbish or litter to accumulate in or around the area in which business hereunder is being conducted.

5.17(11) DISCLOSURE REQUIREMENTS. (a) After the initial greeting and before any other statement is made to a prospective customer, a direct seller or solicitor shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

5.17(11)(b) If any sale of goods is made by a direct seller or solicitor, or any sales order for the later delivery of goods is taken by the seller or solicitor, the buyer shall have the right to cancel said transaction if it involved the extension of credit or is a cash transaction of more than \$25 in accordance with the procedure as set forth in §423.203, Wis. Stats.

5.17(11)(c) If the direct seller or solicitor takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreements, the amount paid in advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller or solicitor, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

- 5.17(12) RECORDS. The Chief of Police shall report to the Village Clerk/Treasurer all convictions for violation of this section and the Village Clerk/Treasurer shall note any violation on the record of the registrant so convicted.
- 5.17(13) REVOCATION OF REGISTRATION. (a) Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; violated any provisions of the Ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- 5.17(13)(b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of the hearing and a statement of the facts upon which the hearing will be based.
- 5.17(14) PENALTY. Any person convicted of violating any provisions of this section shall forfeit not less than \$50 nor more than \$600 for each violation, plus costs of prosecution. Each violation shall constitute a separate offense.

CIGARETTE LICENSES

- 5.18 CIGARETTE AND TOBACCO PRODUCTS RETAILER LICENSE. (1) REQUIRED—EXCEPTION. No person shall in any manner, directly or indirectly, manufacture, sell, exchange, dispose of or give away or keep for sale any cigarettes or cigarette papers or wrappers without first obtaining a license therefore from the Village Clerk/Treasurer in the manner provided in §134.65, Wis. Stats. This section shall not apply to jobbers or manufacturers doing interstate business with customers outside Wisconsin. (m. fr. §5.16.010)
- 5.18(2) FEE. The fee for such cigarette license shall be \$50 or an amount as determined by the Village Board in accordance with §134.65(2) Wis. Stats., and must be paid to the Village Clerk/Treasurer before he/she issues any license under this chapter. (m. fr. V5.16.020)
- 5.18(3) FORM: EXPIRATION: TRANSFERABILITY. All cigarette licenses shall be signed by the Village Clerk/Treasurer and shall contain the name of the licensee and the place where he is authorized to conduct the licensed business, and all cigarette licenses shall expire on June 30th next succeeding the date of issue. No license shall be transferable as to the location of licensed premises, and no license shall be transferable from person to person.
- 5.18(4) VIOLATION AND PENALTY. Any person violating this section shall be fined not more than \$100 nor less than \$25 for the first offense and not more than \$200 nor less than \$25 for the 2nd or subsequent offense. If upon such 2nd or subsequent violation, the person so violating this section was personally guilty of a failure to exercise due care to prevent violation thereof, the person shall be fined not more than \$300 nor less than \$25 or imprisoned not exceeding 60 days or both. Conviction shall immediately terminate the license of the person convicted of being personally guilty of such failure to exercise due care and the person shall not be entitled to another license hereunder for a period of 5 years thereafter, nor shall the person in the period act as the servant or agent of a person licensed hereunder for the performance of the acts authorized by such license. (m. fr. §5.16.040)

NONINTOXICATING AND SODA WATER BEVERAGES

- 5.19 NONINTOXICATING BEVERAGES. This section is enacted pursuant to the authorization contained in §66.053(1)(a), Wis. Stats. (1) **LICENSE REQUIRED.** The Village Board shall grant licenses to such persons as they deem proper for the sale of beverages containing less than one-half of one per centum of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of such beverages, for which a license fee of not less than \$5 nor more than \$50, which said fee shall annually be fixed by the Village Board, shall be paid, except that where such beverages are sold, not to be consumed on the premises, the license fee shall be \$5 or an amount as determined by the Village Board in accordance with §66.053 Wis. Stats.
- 5.19(2) **ISSUANCE BY CLERK/TREASURER.** Such license shall be issued by the Village Clerk/Treasurer and shall designate the specific premises for which granted and shall expire the 30th day of June thereafter. The full license fee shall be charged fro the whole or fraction of the year. No such beverages shall be manufactured, sold at wholesale or retail or sold for consumption on the premises, or kept for sale at wholesale or retail, or for consumption on the premises where sold without such license.
- 5.19(3) **ISSUANCE RESTRICTIONS.** No license or permit may be granted to any person, unless to a domestic corporation or domestic limited liability company, not a resident of this state and of the Village of Lomira nor, subject to §§111.321, 111.322 and 111.335, Wis. Stats., to any person who has been convicted of a felony, unless the person has been restored to civil rights.
- 5.19(4) **LICENSE TRANSFERABILITY.** (a) In case of removal of the place of business from the premises designated in the license to another location in the Village within the license period, the licensee shall give to the Village Clerk/Treasurer notice of such change of location, and the license shall be amended accordingly without payment of additional fee.
- 5.19(4)(b) No such license(s) shall be transferable from one person to another.
- 5.20 SODA WATER BEVERAGES. In accordance with the authority contained in §66.053(2), Wis. Stats., the Village Board may grant licenses to such persons as they deem proper for the sale of soda water beverages, as defined in §97.34, Wis. Stats., to be consumed on or off the premises where sold.
- 5.20(1) **LICENSE REQUIRED.** No person shall in any manner, directly or indirectly, sell, exchange, dispose of or give away or keep for sale any soda water beverages without first obtaining a license therefor in accordance with this section and in the manner provided for in §66.053(2), Wis. Stats. (m. fr. §5.20.010)
- 5.20(2) **LICENSE FEE.** The soda water beverages license fee shall be fixed by the Village Board but shall not exceed \$10 in accordance with §66.053(2) Wis. Stats.
- 5.20(3) **ISSUANCE BY CLERK/TREASURER.** All soda water beverage licenses shall be issued and signed by the Village Clerk/Treasurer and shall contain the name of the licensee and the specific premises for which granted and shall expire on the 30th day of June thereafter.

- 5.20(4) FORM AND TRANSFERABILITY. No license shall be transferable as to the location of the licensed premises, and no license shall be transferable from person to person.
- 5.20(4) VIOLATION AND PENALTY. The penalty for violation of the provisions of this section shall be as provided in §25.04 of this Code. A separate offense is committed on each day on which a violation occurs or continues. (m. fr. §5.20.040)

AMUSEMENT PLACES

- 5.24 AMUSEMENT PLACES, LICENSE AND REGULATION. This subchapter is enacted by the Village Board under authority contained in §§60.23(10) and 175.20(1), Wis. Stats., to regulate, including the licensing of, bowling centers, dance halls, road houses, other places of amusement, billiard and pool tables and amusement devices.
- 5.24(1) DEFINITIONS. (a) An amusement device shall mean:
- 5.24(1)(a)1. Pool tables
- 5.24(1)(a)2. Billiard tables
- 5.24(1)(a)3. Electronic Games
- 5.24(1)(a)4. Any other coin, token or slug operated machine which is used by the public as a game, entertainment, or amusement, whether or not registering a score, but not including music machines.
- 5.24(1)(b) “Amusement arcade or amusement place” shall mean any premises in which are located 5 or more amusement devices as defined in sec. (1)1. (ord.. 159, November 1982, m. fr. §5.24.010)
- 5.24(2) LICENSE REQUIRED. No person, firm or corporation shall operate an amusement arcade or amusement place without receiving an arcade license from the Village upon payment of a license fee. The establishment of an arcade shall also be subject to the conditional use provisions §18.29(6)(o), of the Village Zoning Code. (Ord. 159, November 1982, m. fr. §5.24.020)
- 5.24(3) GRANTING OF LICENSES. (a) Applications. Application for amusement arcade licenses shall be submitted to the Village Clerk/Treasurer. The Village Clerk/Treasurer shall submit the applications to the rules and regulations committee of the Village Board which shall recommend either approval or disapproval of the application to the Village Board. The Village Board shall either approve or disapprove the license.
- 5.24(3)(b) Issuance and Expiration. Upon approval of the application by the Village Board, the Village Clerk/Treasurer, upon payment of the required fees, shall issue the license to the applicant. Licenses shall be for not longer than one year and all licenses shall expire on June 30th of each year.
- 5.24(3)(c) Fee. The fee required to be paid in order to obtain an amusement arcade license shall be \$200 plus \$20 per amusement device per year. This fee shall not apply to amusement devices owned by the Village.
- 5.24(3)(d) Temporary License. Operators of amusement devices on a temporary basis at social or community gatherings shall be required to obtain a limited amusement arcade

license, regardless of the number of devices. This license shall be in effect for not more than 3 days per event. The fee for limited licenses shall be \$10 per day. (Ord. 159, November 1982, m. fr. §5.24.030)

5.24(4) POSTING OF LICENSES. Any license issued hereunder shall be posted in close proximity to the location of the licensed devices. (Ord. 159, November 1982, m. fr. §5.24.040)

5.24(5) PROHIBITIONS AND RESTRICTIONS. (a) The amusement arcade operator shall comply with all applicable state, county and Village laws, ordinances, rules and regulations.

5.24(5)(b) The amusement arcade operator shall not allow any person under the influence of an intoxicant or a controlled substance as defined in the Wisconsin Statutes to remain in the establishment.

5.24(5)(c) The amusement arcade operator shall not allow minors to be on the premises between 8:00 A.M. and 3:30 P.M. on days when schools are in session. (Ord. 159, November 1982)

5.24(6) SCHEDULE OF DEPOSITS. The schedule of deposits in §25.04 of this Code is hereby amended by the addition of the following:

<u>Ordinance Number</u>	<u>Offense</u>	<u>Deposits Required</u>
158	Failure to Procure Amusement	\$400
SCHEDULE OF DEPOSITS CONTINUED:		
	Arcade License	
	Failure to Report Correct Number of Amusement Devices (each device shall constitute a separate offense)	\$45
	Failure to Obtain Limited Amusement Device License	\$20

TENT SALES AND FLEA MARKETS

5.25 TENT SALES. (1) LEGISLATIVE INTENT. It is the intent of the Lomira Village Board of Trustees in and by the enactment of this section to regulate and control “Tent Sales” to be held within the Village.

5.25(2) DEFINITIONS. (a) Lomira Business. “Lomira business” means any permanent business currently established and being conducted in the Village of Lomira.

5.25(2)(b) Transient Businesses. “Transient businesses” means a business not having an established business in the Village of Lomira, such as a merchant who travels the country to sell merchandise. (See also §5.17 of this Code)

5.25(3) PERMIT REQUIREMENTS AND FEES. (a) Lomira businesses, which have been in existence for a period of more than 90 days, may apply for a tent sale permit in accordance with section 5.25(6), on forms provided by the Village Clerk/ The tent must be placed on the same parcel of property as the business owner’s permanent location, or

on an adjacent parcel, with the owner's permission. The fee for such permit shall be equal to \$15 per day for which the tent sale is conducted.

5.25(3)(b) Transient businesses shall be issued a Permit upon securing a Village Sellers Permit in accordance with §5.25(6), and the payment of a \$100 per day fee; a Conditional use Permit approved by the Village; a Sign Permit approved by the Village Zoning Authorities; and, any required State seller's permit(s). Each Applicant shall secure liability insurance prior to commencing a Tent Sale and copies of said policy shall be given to the Land Owner and the Village of Lomira to insure the Land Owner and the Village of Lomira against any all liability.

5.25(4) TENT PLACEMENTS AND INSPECTIONS. (a) Right-of-Way setback. Tents must be a minimum of 25 feet back from major right-of-way.

5.25(4)(b) On Site Inspection. An onsite inspection by the Police Chief will be conducted before any tent is set-up. This inspection is to approve tent location, traffic flow and safety, sign placement and all other items pertaining to the event. Once approval is given, nothing extra, such as signage, is to be added unless prior approval is given.

5.25(4)(c) Phone and Electrical Service. All electrical and phone service must be installed to code by utility companies or certified contractors.

5.25(4)(d) Fire Standards. All tents must meet Federal Fire Standards.

5.25(4)(e) Fire Resistant Materials. Tent tarpaulins and all decorative materials shall be treated to render the materials flame resistant for the period for which the Permit is granted in accordance with the provisions of the Fire Prevention Code. (See ch. 19, this Code.)

5.25(4)(f) Structural Supports. Tents shall be adequately guyed, supported and braced to withstand a wind pressure of not less than 20 pounds per square foot of projected area. Fiber rope shall be used only for mooring to stakes.

5.25(4)(g) Fire Separation. No tent shall be erected nearer than 10 feet to interior lot lines or to any building on the lot and shall not occupy more than 75% of the premises; unless otherwise approved by building official under conditions which do not endanger the public safety.

5.25(4)(h) Exit ways. Not less than 22 inches exit width shall be provided for each 500 square feet of public space enclosed within a minimum width of exit way of 44 inches. When the occupancy load is more than 600, there shall be at least three (3) exit ways, and if more than 1,000 there shall be at least four (4) exit ways. The line of travel to an exit way shall be not more than 150 feet.

5.25(4)(j) Aisles and Passageways. There shall not be more than 11 seats between any seat and the nearest aisle. All exit way aisles and passageways shall be maintained free and unobstructed at all times during the occupancy of the tent. Aisles shall not be less than 24 inches in width when serving not more than 60 individuals, and not less than 36 inches in width when serving more than 60 individuals. When aisles are divided by a column or other obstruction, a minimum width of 22 inches shall be left on each side.

5.25(4)(k) Combustible Materials. No hay, straw, shavings or similar combustible materials shall be allowed within the tent structure other than that necessary for the daily feeding and care of animals, and sawdust and shavings for use in performances when kept damp. Noncombustible materials shall be permitted under stands or seats at any time.

5.25(4)(L) Combustible Trash. The area within and adjacent to tents shall be maintained clear of all grass and underbrush creating a fire hazard within a radius of 50 feet; and all combustible trash shall be removed from the enclosure at all performances.

5.25(4)(m) Exposed Flames. No gasoline, gas, charcoal or other heating or cooking device or other exposed flame not connected with the performance or exhibit shall be allowed inside or within 20 feet of the tent enclosure.

5.25(4)(n) Spot Lighting. Spot or effect lighting shall be by electricity only; and all combustible construction within 6 feet of such equipment shall be protected with approved noncombustible insulation.

5.25(4)(o) Fire Protection. Portable fire extinguishing equipment and firefighting tools shall be provided, complying with the provisions of the Fire Prevention Code, as directed by the Chief of the Fire Department.

5.25(4)(p) Fire Watchers. One or more qualified persons to serve as fire watchers shall be employed by all circuses, carnivals, or large exhibitions where such crowds assemble. They shall familiarize themselves with all fire protection facilities and fire prevention features and with the condition of exits and shall patrol the entire tent area during the time of occupancy. They shall see that aisles and exit ways are open and the “No Smoking” rules are enforced.

5.25(5) TIME ALLOWANCES. (a) Businesses will be allowed only three Tent Sales per year.

5.25(5)(b) A Tent Sale may be conducted at any time during the calendar year. The sale may be conducted for a maximum of 18 days. Extra time prior to and after the Tent Sale event may be allowed for set-up and take-down, with special approval of the Village Board.

5.25(5)(c) Tents and immediate surrounding area must be kept clean and presentable. No torn or shabby looking tents will be tolerated.

5.25(5)(d) If merchandise is to be left in tent or near the tent at night, night security shall be provided by the merchant to prevent any vandalism. The Village Police will not be held accountable for any incidents that occur while tent is not occupied.

5.25(5)(e) All Permits such as sign, mobile sellers, and Federal Fire Certificate, must be on display.

Section 5.25(6) of the Lomira Municipal Code is hereby created to read as follows:

5.25(6) TENT SALE PERMITS. (a) applicants for a Tent Sale Permit shall make application with the Village Clerk at least 30 days prior to the beginning of the tent sale. Once the applicant has complied with all necessary requirements, the Village Clerk shall forward the application to the Village Board for consideration at its next regularly scheduled meeting.

- 5.25(7) **ENFORCEMENT AND PENALTIES.** The provisions of this section shall be enforced by and under the direction of the Village Board. Any person, firm, company, or corporation, who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$10 nor more than \$200, together with the costs of action. Each day a violation of this section exists or continues shall be considered a separate and distinct violation thereof for the purposes of assessing penalties. Compliance therewith may be enforced by injunction order at the suit of the Village Board.
- 5.26 **REGULATION OF FLEA MARKETS.** (1) **REGISTRATION REQUIRED.** It shall be unlawful for any person to operate or engage in the business of operating a flea market within the Village of Lomira without first being registered for that purpose as provided herein.
- 5.26(2) **DEFINITIONS.** The following definitions shall apply to this section. (a) **Flea Market.** Means a gathering of people for the purpose of trading or selling of merchandise.
- 5.26(3) **EXEMPTIONS.** The following shall be exempt from all provisions of this section: (a) Any person selling used articles from their own home, garage, or property either by direct sale or by auction.
- 5.26(3)(b) Charitable organizations which are registered under §440.41 Wis. Stats., who, in conducting fund raising activities for said organizations, may sell second-hand articles and other merchandise.
- 5.26(4) **REGISTRATION.** (a) **Registration Form.** Applicants must complete and return to the Village Clerk/Treasurer a registration form furnished by the Clerk/Treasurer, which shall require the following information: 1. Name, address, and phone number of applicant.
- 5.26(4)(a)2. Name, address, and phone number of person or persons supervising the flea market.
- 5.26(4)(a)3. Location where the flea market is to be held.
- 5.26(4)(a)4. Dates the flea market will be operated.
- 5.26(4)(b) **Fee.** At the time the registration is returned to the Village Clerk/Treasurer, a fee according to the following schedule shall be paid: 1. 1 day permit, annually, \$25;
- 5.26(4)(b)2. 2 to 7 days, annually \$50;
- 5.26(4)(b)3. More than 7 days, annually, \$100.
- 5.26(4)(c) **Village Board Action.** Upon the filing of the registration along with the prescribed fee, the Village Clerk/Treasurer shall present the registration to the Village Board at its next scheduled meeting, and the Village Board shall either grant or reject the permit.
- 5.26(4)(d) **Issuance Only Upon Approval.** Upon Village Board approval, the Village Clerk/Treasurer shall issue a permit to the operator for the requested dates.

5.26(4)(e) Posting Required. The permit shall be displayed and posted in a conspicuous place by the operator where it can be readily and distinctly seen.

5.26(5) VIOLATION AND PENALTY. Any violation of this section shall result in a forfeiture of not less than \$25, nor more than \$100, plus the cost of prosecution. Each day a violation of any provision of this section exists or continues shall constitute a separate violation.

Chapter 6

ANIMALS

6.01	Regulation of Dogs and Cats
6.02	Impoundment of Stray Dogs
6.03	Impoundment of Stray Cats
6.04	Rabies Vaccine Required
6.05	Dog License Tax Requirement
6.06	Exemption of Dogs for Blind, Deaf and Mobility Impaired
6.08	Procedure to Correct Offense
6.10	Prohibition
6.15	Violation and Penalty

- 6.01 REGULATION OF DOGS AND CATS. (1) STATE LAW ADOPTED. The provisions of Ch. 174, Wis. Stats., and as subsequently amended, so far as applicable, are adopted by reference and made a part hereof as if fully set forth herein.
- 6.01(2) BARKING DOGS. It is unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, to the great discomfort of the peace and quiet of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs are declared to be a public nuisance. (Ord. 114 -2, 1972: Ord. 98 53, 1969, recr. from §6.040.090)
- 6.01(3) VICIOUS: DEFINED: KEEPING UNLAWFUL. (a) It is unlawful for any person knowingly to keep or harbor any vicious dog, cat or domestic animal.
- 6.01(3)(b) Vicious as used in this subsection means a dog, cat or other domestic animal that may suddenly assault another animal or assaults a person while said person is

peacefully walking or riding on the public streets or while lawfully on the premises of the owner or keeper of such dog, cat or other domestic animal. (Ord. 98 §1, 1969, m.fr. §6.04.070)

- 6..01(4) MUZZLING. Whenever the safety of the public requires it, the Village President, by notice posted and/or published in the official paper of the Village, shall order that for a period of twenty days from and after the date of the notice, no dogs shall be permitted to go abroad in any of the streets, lanes, alleys or public places of the Village without being muzzled with a secure muzzle or being led by a chain or other secure fastening. The owner and keeper of any dog or dogs who permits the same to go abroad contrary to the provision of this section is guilty of an offense. (Ord. 98 52, 1969, m.fr. §6.04.080)
- 6.01(5) PROPERTY DAMAGE AND TREPASS. Any person owning or possessing a dog or cat who by himself or his agent permits such dog or cat to go upon any public or private land and break, bruise, tear up, crush or injure any lawn, flowerbed, plant, shrub, tree or garden, is guilty of an offense. (Ord. 98 54, 1969, m. And recr. fr. §6.04.100)
- 6.01(6) RUNNING AT LARGE PROHIBITED. It is unlawful for dogs or cats to run at large within the corporate limits of the Village. AT LARGE means to be wandering roving or rambling at will, unrestrained, off the premises of the owner and not under the control of a person not less than 10 years of age of sufficient strength and competency to control the animal and prevent it from annoying or frightening pedestrians or trespassing on private or public property; such control shall be by means of a leash securely attached to such dog or cat; but a cat or dog within a motor vehicle of its owner shall be deem to be on its owner's premises. (Ord. 65 . §1, 1952, amended Ord. 165, 1983, m.fr. . §6.040.050)
- 6.01(7) STRAY CATS AND IMPOUNDMENT OF STRAY CATS. The Village of Lomira police department or any person authorized by the Village Board shall not seize, impound or restrain any cat found running at large.
- 6.01(8) ANIMAL WASTE REMOVAL REQUIRED. It is unlawful for any person to cause or permit a dog or cat to be on property, public or private, not owned or possessed by such person, unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle. This subsection shall not apply to a person who is visually or physically handicapped.
- 6.02 IMPOUNDMENT OF STRAY DOGS. Any police officer or person authorized by the Village Board to do so may seize, impound or restrain any dog found running at large in violation of §6.01(6). All dogs seized shall be delivered to the chief of police or such other person as the Village Board shall designate. The chief of police or such other authorized person shall notify the owner personally if such owner is known to the officer or person or can be ascertained with reasonable effort, but if such owner is unknown or cannot be ascertained, the officer or person shall post written notice in three public places in the Village, giving a description of the dog, stating where it is impounded, the conditions for its release within forty-eight hours, Sundays excepted, after such officer or person has taken such dog into his possession. If after five days the owner does not claim such dog, such officer or persons shall dispose of the dog in a proper and humane manner. (Ord 61 §3, 1947, amended Ord. 165, 1983, m.fr. §6.04.060)
- 6.03 STRAY CATS AND IMPOUNDMENT OF STRAY CATS. The Village of Lomira police department or any person authorized by the Village Board shall not seize, impound or restrain any cat found running at large.

- 6.04 RABIES VACCINATION REQUIRED. It shall be unlawful for any person to own, keep or have in their possession any dog, cat or other animal that is kept as a pet that is susceptible to rabies (as determined by a veterinarian) without being properly vaccinated against the disease that is over 5 months of age reference Wisconsin State Statute 95.21(2). All dogs, cats or other animals meeting this requirement must have a current rabies vaccination and to maintain this proper rabies vaccination certification to meet with the requirements of this ordinance. The vaccinations shall be done by a licensed veterinarian. The owner or subject in possession of the animal shall be able to produce a proof of current rabies vaccination. A rabies vaccination tag shall be attached to the collar of all licensed dogs and cats at all times, except as provided in Wisconsin State Statute 95.21(2)(f). No dog or cat license shall be issued by the Village of Lomira to any person without proof of the dog or cats current rabies vaccination.
- 6.05 DOG AND CAT LICENSE TAX REQUIREMENT. Except as provided in §§174.075, Wisconsin Statutes the owner of a dog or cat of more than 5 months of age on January 1 of any year or 5 months of age within the license year shall annually on or before the date that the dog or cat becomes 5 months of age pay the dog or cat license tax and obtain a license as herein provided. The owner of the animal in question must present current proof of rabies vaccination certification of the dog or cat before the license will be issued.
- 6.05(1) LICENSE YEAR. The license year commences on January 1 and ends on the following December 31.
- 6.05(2) LICENSE FEE. Every person residing in the Village owning any male or female dog or having same in his or her possession shall obtain a license for such dog to be kept or harbored in the Village by paying to the Village Clerk/Treasurer the minimum dog license tax of \$15 for an unneutered male or unspayed female dog, or upon presentation of evidence that the dog is neutered or spayed, the sum of \$10 for a neutered male or spayed female or one-half of these amounts if the dog became 5 months of age after July 1 of the license year (Ord. 8 §§2, 1901, amended Ord. 165, 1983, m. Fr. §§6.04.020)
- 6.05(3) ADDITIONAL TAX. The Village of Lomira Board may by resolution raise the minimum license tax on dogs and cats within its jurisdiction. If the Village of Lomira Board increases the minimum tax for unneutered male dogs and cats and unspayed female dogs and cats is greater than the tax for neutered male dogs and cats and spayed female dogs and cats.
- 6.05(4) LATE FEES. In accordance with §§174.05(5) Wisconsin State Statutes the Village of Lomira Clerk/Treasurer shall assess and collect a late fee of \$5 from every owner of a dog or cat that is 5 months of age or over, if the owner of the animal failed to obtain a license for that animal prior to April 1 of each calendar year, or within 30 days of acquiring ownership of a licensable age. All late fees received or collected shall be paid into the Village of Lomira Treasury as revenue of the Village of Lomira. The Village of Lomira Board may, when setting the amount of the dog and cat license requirement tax, provide that any person purchasing a dog or cat license for a dog or cat over 5 months of age or over after April 1 of that calendar year shall pay an additional late fee.
- 6.06 (Cr. During codification 1999) EXEMPTION OF DOGS FOR BLIND, DEAF AND MOBILITY IMPAIRED. Every dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons is exempt from the dog license tax and every

person owning such a dog shall receive annually a free dog license from the Village Clerk/Treasurer.

- 6.08 PROCEDURE TO CORRECT OFFENSE. It is the policy of the Village Board to take the following steps when an offense is being committed under any of the provisions of §§6.01(2)(3)(4) and (5):
 - 6.08(1) The offender shall be notified of the offense by Village police.
 - 6.08(2) If the offense continues, the offender shall be served by Village police with a warning letter from the Village Board or Village Attorney.
 - 6.08(3) If the offense continues, the offender will be served with the appropriate citation to appear in court. This policy of the Board shall not prevent the immediate prosecution of an offender if deemed necessary. (Ord 98 §6, 1969, m. fr. §6.04.110)
- 6.10 PROHIBITION. No person shall take, catch kill or hunt any game bird or game animal as defined by Ch. 29, Wis. Stats., or any acts or laws amendatory thereto, within the corporate limits of the Village. (Ord. 46 §1, 1939; m. fr. §6.08.010)
- 6.15 VIOLATION AND PENALTY. Any person who shall violate any provision of this chapter shall be subject to the provisions of §25.04 of this Code.

Chapter 8

HEALTH, SAFETY AND SOLID WASTE

- 8.01 Title
- 8.02 Purpose & Intent
- 8.03 Abrogation & Great Restriction
- 8.04 Definitions

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- 8.06 Compliance
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- 8.08 Housing As Health Hazard
- 8.09 Public Places
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- 8.12 Industrial Waste Treatment
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- 8.25 Dutch Elm Disease
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- 8.35 Storage of designated substances prohibited
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- 8.50 Solid Waste Disposal and Recycling
- 8.51 Prohibited Disposal Practices
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- 8.53 Violation
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- 8.01 TITLE. This Chapter shall be known and cited as “The Village of Lomira Health, Safety and Solid Waste Ordinance” and may also be known as the “Village Health, Safety and Solid Waste Code.”
- 8.02 PURPOSE AND INTENT. This Chapter is adopted to promote the health, safety, prosperity, aesthetics and general welfare of the people within the village; to regulate the location, construction, installation, alteration, design and use of all private water supply and sewage disposal systems so as to protect the health of residents; to secure safety from disease and pestilence; to further appropriate use and conservation of certain land and water resources and to preserve and promote the general beauty of the Village.
- 8.03 ABROGATION AND GREATER RESTRICTIONS. It is not the intent of this Chapter to repeal, annul, abrogate, impair or otherwise interfere with any existing permits, agreements, rules, regulations, ordinances, covenants, or deed restrictions previously adopted or issued pursuant to the law. The provisions of this Chapter shall govern wherever same imposes greater restrictions.

- 8.04 INTERPRETATION. The provisions of this Chapter shall be interpreted and applied as minimum requirements, shall be construed in the favor of the Village and shall not be deemed a limitation or repeal of any power granted by Wisconsin State Statutes.
- 8.05 DEFINITIONS. Unless specifically defined elsewhere herein, words and phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this Chapter its most reasonable application.
- 8.05(1) WISCONSIN ADMINISTRATIVE CODE ADOTPED. The definitions provided in Chs. NR 100.03, 812, 813 and Comm 82, 83 and 85, Wis. Adm. Code are hereby adopted by reference as if fully set forth herein.
- 8.05(2) BED AND BREAKFAST ESTABLISHMENT. See §254.61(1), Wis. Stats.
- 8.05(3) COUNTY. County means the County of Dodge, Wisconsin.
- 8.05(4) DWELLING. See §254.55(1), Wis. Stats.
- 8.05(5) ESTABLISHMENT. See §254.61(2), Wis. Stats.
- 8.05(6) GARBAGE. See §§281.01(4) and 289.01(9), Wis. Stats.
- 8.05(7) HOTEL. See §254.61(3), Wis. Stats.
- 8.05(8) INDUSTRIAL WASTE. See §281.01(5), Wis. Stats.
- 8.05(9) OWNER. See §254.55(2), Wis. Stats.
- 8.05(10) PERSON. See §§281.01(9) and 289.01(27), Wis. Stats.
- 8.05(11) PRIVY. An outhouse or structure used for the deposition of human excrement.
- 8.05(12) SEPTIC TANK. A reservoir or tank which receives crude sewage and by bacterial action and sedimentation effects a process of clarification and decomposition of solids.
- 8.05(13) PUBLIC HEALTH. §254.61(4), Wis. Stats.
- 8.05(14) PLAN COMMISSION. For the purpose of this Chapter the Plan Commission means the Village of Lomira Plan Commission. See §1.16 this Code.
- 8.05(15) RESTAURANT. See §254.61(5), Wis. Stats.
- 8.05(16) TEMPORARY RESTAURANT. See §254.61(5m), Wis. Stats.
- 8.05(17) TOURIST OR TRANSIENT. See §254.61(5r), Wis. Stats.
- 8.05(18) VENDING MACHINE. See §254.61(7), Wis. Stats.
- 8.05(19) VENDING MACHINE LOCATION. See §254.61(9), Wis. Stats.
- 8.05(20) VENDING MACHINE OPERATOR. See §254.61(10), Wis. Stats.

- 8.05(21) WASTEWATER. See §281.01(17), Wis. Stats.
- 8.05(22) WATER SUPPLY. See §181.01(19), Wis. Stats.
- 8.06 COMPLIANCE. (1) GENERAL CONDITIONS. No private water supply or sewage disposal system or part thereof shall hereafter be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without a Sanitary Permit and without full compliance with the provisions of this Chapter and all other applicable Village, County and State rules, regulations, laws and ordinances.
- 8.06(2) EXCEPTIONS. (a) The Village Board may grant variances from the sanitary provisions of this Chapter where, due to the existence of special conditions a literal enforcement of the provisions hereof would result in unnecessary hardship and so that the spirit and intent of this Chapter shall be observed and substantial justice done. No variance shall be granted which does not meet the minimum requirements of the State Division of Health or other State, Village, and County requirements or which will threaten or pose a potential threat to health or safety or which cause nuisances.
- 8.06(2)(a) No sanitary permit will be required in making minor or emergency repairs to existing pumps, faucets, valves, pipes, appliances, the removal of stoppages, or for the replacement of existing plumbing fixtures or well pumps.
- 8.06(2)(bm) The sanitary provisions of the County Sanitary Ordinance shall apply to those lots within the Village not served by public sewer. (See §18.42(5)(e), this code)
- 8.07 LEAD POISONING AND CONTROL. In accordance with §254.154, Wis. Stats., the Village Board may enact and enforce ordinances establishing a system of lead poisoning or lead exposure control that provides for the same or higher standards than those set for in ch. 254, subch. II, Wis. Stats. All ordinances, rules and regulations adopted by the Village Board under this subsection are adopted by reference hereto as if fully set forth herein.
- 8.08 HOUSING AS HEALTH HAZARD. In accordance with §254.593, Wis. Stats., the Village Board may declare housing that is dilapidated, unsafe or unsanitary to be a human health hazard and a nuisance.
- 8.09 PUBLIC PLACES. (1) PUBLIC BUILDINGS. The owner(s) and occupant(s) and everyone in charge of a public building, as defined in §101.01(12), Wis. Stats., shall keep the building clean and sanitary.
- 8.09(2) HOTELS, RESTAURANTS AND VENDING MACHINES. Every hotel, tourist rooming house, bed and breakfast establishment, restaurant, temporary restaurant, vending machine commissary and vending machine located within the Village shall be operated and maintained with a strict adherence to public health and safety and in conformity with this Chapter, Ch. 254, Wis. Stats., and the rules and orders of the County and the State Department of Health and Family Services.
- 8.10 WATER SUPPLY. All plumbing fixtures shall be served by the village public water supply system where available. Where the Village water supply system is not available, a private water supply may be used subject to approval by the Village Board.

- 8.11 LIQUID WASTE DISPOSAL REGULATED. No person shall permit the discharge of liquid waste into roadside ditches, dry runs or any surface waters including lakes, streams, flowage, ponds, and any other natural watercourses, subject to the provisions of Wisconsin State Statutes. Further, no effluent, untreated sewage, pumpage from a septic tank, privy, dry well, holding tank or cesspool shall be dumped or discharged into storm sewers or a location where surface waters may be likely to wash such materials into any navigable waters.
- 8.12 INDUSTIRAL WASTE TREATMENT. Industrial waste treatment disposal systems located within the Village shall be constructed in accordance with the approval procedures required by the Wisconsin Department of Natural Resources and pursuant to Chs. 281 and 285 except §281.48 Wis. Stats., and Ch. NR 200, Wis. Adm. Code. See §§13.20 through 13.36, of this code for controlling Village ordinances.
- 8.13 ERADICATING OF PUBLIC NUISANCE. (1) GENERAL. In any cases under the provision of this chapter where a menace to health or nuisance is found to exist, upon notice having been given to the owner of the premises of the existence of such menace to health or nuisance, and the time in which the owner may have corrected the condition found to be a menace to public health or a nuisance having expired, the County health officer or the duly authorized agents of the Village may enter the premises so affected at any proper time of the day or succeeding days and cause the necessary changes to be made to eliminate or eradicate the menace to health or nuisance.
- 8.13(2) PLUMBING AND PRIVATE SEWER SYSTEMS. In any cases under the provision of this chapter and chs. 13 and 18 of this code, where a menace to health or nuisance is found to exist in plumbing installations or private sewer systems, upon notice having been given to the owner of the premises of the existence of such menace to health or nuisance, and the time in which the owner may have corrected the condition found to be a menace to public health or a nuisance having expired, the Village Building Inspector or other duly authorized agents of the Village, as the Village Board may designate, may enter the premises so affected at any proper time of the day or succeeding days and cause the necessary changes to be made to eliminate or eradicate the menace to health or nuisance.
- 8.13(2)(2m) The cost of making changes or repairs in any such plumbing or sewage installation shall be charged to the owner of the premises. Under §66.60(16), Wis. Stats., in the case of refusal or neglect to pay the same, such charges shall be entered in the next succeeding tax roll of the Village of Lomira as a special charge against the premises so affected.
- 8.14 DEPOSITING GARBAGE ON STREETS OR ALLEYS. It shall be unlawful for any person or corporation to deposit, place, throw or leave any slop, dirty water or other liquid, offensive smelling or otherwise nauseous or unwholesome substance or matter, or any dirt, filth, straw or other rubbish, or any ashes, garbage, dirt or refuse of any kind or description in or upon any street, gutter, sidewalk, alley, public grounds, or another's private premises within the Village of Lomira. (am. Rn. Fr. Ord. 4 §10, 1899 and §8.12.010, 1988)
- 8.15 DEPOSTING GARBAGE IN PRIVATE CONTAINERS. It shall be unlawful for any person or corporation to deposit any garbage in any container which is owned, leased or rented by another.

- 8.16 DEPOSITING HOUSEHOLD GARBAGE IN PUBLIC CONTAINERS. It shall be unlawful for any person or corporation to deposit any household garbage in any container owned by the Village of Lomira and place along streets and in parks for the sole purpose of collection of refuse generated by the general public in those areas.
- 8.17 DEPOSITING GARBAGE IN OR ALONG WATERWAYS. It shall be unlawful for any person or corporation to deposit any garbage in or on the shoreline of any lake, creek, river or pond in the Village.
- 8.18 DUMPSTER ENCLOSURES REQUIRED. All dumpsters in R3 Residential, Commercial, Business Park and Industrial districts shall be surrounded with a solid fence to keep the dumpster from public view.
- 8.19 PENALTIES. Any person violating §§8.14, 8.15, 8.16 and 8.17 of this Code shall forfeit not more than \$200 plus the cost of prosecution. Each day a violation of these provisions exists or continues shall constitute a separate violation hereunder.

DUTCH ELM DISEASE

- 8.25 REQUIREMENTS AND RESTRICTIONS. (1) NUISANCE DECLARED. The following are public nuisances wherever they may be found within the Village: (a) Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau, which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh.);
- 8.25(1)(b) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide. (m. Fr. Ord. 89 §2, 1963 and §8.04.020)
- 8.25(2) NUISANCES PROHIBITED. No person, firm or corporation may permit any public nuisance as defined in this section to remain on any premises owned or controlled by said person, firm or corporation within the Village. (Ord. 89 §3, 1963 and §8.04.030)
- 8.25(3) INSPECTION. (a) The Village Forester/Weed Commissioner shall inspect or cause to be inspected all premises and places within the Village at least twice each year to determine whether any public nuisance as defined in this section exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the Dutch Elm disease fungus or any elm bark-bearing material reported or suspected to be infested with the elm bark beetle.
- 8.25(3)(b) The Village Forester/Weed Commissioner shall have the authority to enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this subchapter. (Ord. 89 §4, 1963 and §8.04.040)
- 8.25(4) ABATEMENT OF DUTCH ELM DISEASE NUISANCES. (a) Whenever the Forester/Weed Commissioner finds with reasonable certainty, on examination or inspection, that any public nuisance as defined in this section exists within the Village, s/he shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease fungus or the insect pests or vectors known to carry such disease.

8.25(4)(b) Before abating any nuisance on private premises or in any terrace strip between the lot line and the curb, the Forester/Weed Commissioner shall proceed as follows: 1. If the Forester/Weed Commissioner determines that danger to other elm trees from the nuisance is not imminent because of elm dormancy s/he shall make a written report of his/her findings to the Village Board which shall proceed as provided in §27.09, Wis. Stats.

8.25(4)(b)2. If the Forester/Weed Commissioner determines that danger to other elm trees within the Village is imminent, s/he shall notify the owner or abutting owner of the property on which such nuisance is found in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the Village that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than ten days from the date of such notice unless the Forester/Weed Commissioner finds that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limited, the Forester/Weed Commissioner shall cause the abatement thereof.

8.25(4)(c) No damage shall be awarded to the owner for destruction of any elm tree, elm wood or elm material or any part thereof pursuant to this section. (Ord. 89 §5, 1963 and §8.04.050)

8.25(5) **SPRAYING.** (a) Whenever the Forester/Weed Commissioner determines that any elm tree or elm material within or near the Village is infected with Dutch Elm disease fungus, he may cause to be sprayed all high value elm trees within a one-thousand-foot radius thereof with an effective elm bark concentrate; provided such spraying shall be performed prior to July 15th or after October 15th of any year.

8.25(5)(b) Before causing the spraying of any elm tree on private property in accordance with this section, the Forester/Weed Commissioner shall notify the owner as provided in subs (4). (Ord. 89 §6, 1963 and §8.04.060)

8.25(6) **ASSESSMENT OF ABATEMENT AND SPRAYING COSTS.** (a) The entire cost of abating any public nuisance as defined in subs. (1) or of spraying any elm tree in accordance with subs.(5) shall be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with §§66.660(16) and 27.09, Wis. Stats. The cost of abating any such nuisance or spraying any elm tree or part thereof which is located in or upon any park or public grounds shall be borne by the Village.

5.25(6)(b) The Forester/Weed Commissioner shall keep strict account of costs of work done under this chapter and shall report monthly to the Village Clerk/Treasurer all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk/Treasurer shall report to the Village Board the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against said parcels or lots in the same manner as other special taxes. (Ord. 89 §7, 1963 Ord. 89 §4, 1963 and §8.04.070)

8.25(7) **TRANSPORTING OF ELM WOOD PROHIBITED.** No person, firm or corporation shall transport within the Village any bark bearing elm wood or materials without first securing the written permission of the Forester/Weed Commissioner. (Ord. 89 §8, 1963 Ord. 89 §4, 1963 and §8.04.080)

- 8.26 INTERFERENCE WITH VILLAGE OFFICIALS PROHIBITED. No person, firm or corporation shall prevent, delay or interfere with the Village Forester/Weed Commissioner or designated agents thereof, while they are engaged in the performance of duties imposed by this subchapter. (Ord. 89 §4, 1963 and §8.04.090)
- 8.27 VIOLATION AND PENALTY. Unless specifically provided elsewhere herein, any person, firm or corporation which violates any of the provisions of this subchapter shall, upon conviction thereof, be subject to the procedure set forth in §25.04 of this Code. (Amended during 1978 codification; Ord. 89 §10, 1963 Ord. 89 §4, 1963 and §8.04.100)

REFUSE BURNING

- 8.30 REFUSE BURNING REGULATED. (1) See Chapter 19.45
- 8.31 OUTSIDE BURNING HEATING SYSTEMS. No person or business shall place on any property in the Village of Lomira an outdoor burning heating system. An outdoor burning heating system is described as: any structure located outside a residence which burns combustible fuel for the purpose of creating heat for any primary or accessory structure.
- 8.32 NOXIOUS WEEDS. (1) DEFINITIONS. For the purpose of this subchapter, the following terms are defined:
- 8.32(1)(a) The term “destroy” means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at such time and in such manner as will effectually prevent such plants from maturing to the bloom or flower stage.
- 8.32(1)(b) The term “noxious weeds” as used in this chapter includes the following; Canada thistle, leafy spurge and field bindweed (creeping Jenny) and any other such weeds as the governing body of any municipality or the County Board of any county by ordinance or resolution declares to be noxious within its respective boundaries.
- 8.32(1)(c) The term “weed commissioner” as used in this section shall mean the Village Forester/Weed Commissioner under §1.04(6), of this code.
- 8.32(2) ABATEMENTS: DUTY ASSIGNED. It shall be the duty of every owner, occupant, agent or person in charge of any lot or parcel of land within the Village to destroy all noxious weeds upon such premises and cut all grass (on lawns and recreation areas) which exceed six inches in length. (Ord. 4 §28, 1899, and mn.fr. §8.16.010)
- 8.32(3) ANNUAL NOTICE. The Village President shall annually on or before May 15 publish a Class 2 notice, under ch. 985, Wis. Stats., notifying that every person is required by law to destroy all noxious weeds, as defined in this §66.96, Wis. Stats., on lands in the Village which the person owns, occupies or controls.
- 8.32(4) ABATEMENT: VILLAGE ACTION. (a) Notification of Existence. It shall be the duty of the Weed Commissioner to notify the owners or occupants of such land within the Village to comply with Sec. 8.32(2) when violations occur.
- 8.32(4)(b) Village Action After Noncompliance. Should such owner or occupant neglect or fail to obey the provisions of this section within 60 hours after having received such notification, the Weed Commissioner shall then proceed to cut down noxious weeds

and/or cut grass where the owner or occupant of such lots fails to do so, and the expense thereof shall be paid by the owner.

8.32(4)(c) Records and Special Charges. The Weed Commissioner shall keep an account of such expense and make a report of the same to the Village Clerk/Treasurer who shall send a bill to the owner charging for said services. If not paid within 30 days, the Clerk/Treasurer shall enter the account therein charged to each lot or parcel of land in the next or subsequent tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other Village tax upon real estate.

- 8.35(5) EXCEPTIONS. This section does not apply to Canada thistle or annual noxious weeds that are located on land that the Wisconsin Department of Natural Resources owns, occupies or controls and that is maintained in whole or in part as habitat for wild birds.

STORING OF GUNPODER AND EXPLOVSIVES

- 8.35 STORAGE OF DESIGNATED SUBSTANCES PROHIBITED. It is unlawful to store or keep any dynamite, nitroglycerin, giant powder or other explosives other than gun powder in any storeroom, wareroom, building, or on any premises within the Village limits. (Ord. 29 §1, 1930, and m.fr. §8.20.010)

- 8.36 GUNPOWDER: STORAGE CONDITIONS. No more than five pounds of gunpowder may be kept in closed metal canisters in a storeroom or wareroom away from artificial heat or light, and not more than 50 pounds of gunpowder may be kept if in a magazine made of fireproof material or of wood covered with sheet iron and mounted on wheels and kept securely locked, except when necessarily opened for use by authorized persons, and not more than one thousand blasting caps in a similar, but separate magazine. The magazines shall be conspicuously labeled in red letters at least 4 inches high. ***“EXPLOSIVES,”*** and located within the building, on the floor nearest the street level and within ten feet of the street entrance. (Ord. 29 §2, 1930, and fr. §8.20.020)

- 8.37 GUNPOWDER: PERMIT REQUIREMENT. Any person, firm or corporation who sells or stores gunpowder shall obtain a permit from the Chief of the Fire Department, who shall inspect the place where same is kept. The dealer shall fully disclose to the Chief where same is kept both in the day and nighttime. (Ord. 29 §3, 1930, and fr. §8.20.030)

- 8.38 VIOLATION: PENALTY. Any person, firm or corporation violating any of the provisions of §§8.35 through 8.37 shall be subject to the provisions set forth in §25.04 of this Code. (Amended during 1978 codification; Ord. 29, sec. 4, 1930, m.fr. §8.20.040)

STORING JUNK

- 8.40 VILLAGE REGULATIONS AND RESTRICTIONS. (1) PROHIBITION. The keeping, housing, storing and placing of all junk, such as all scrap iron, wrecked trailers, bottles, jugs, rags, broken glass, paper of all kinds, all scrap metal, and anything which from its worn condition renders it practically useless for the purpose for which it was made, and what is commonly classes as junk, is a public nuisance, and detrimental to the public health and welfare of the citizens of the Village. (Ord. 83, sect. 1, 1961, fr. §8.24.010)

- 8.40(2) DEFINITIONS: ABANDONED OR JUNKED MOTOR VEHICLES. (a) Junked motor vehicles and accessories are defined as any self-propelled land vehicle which can be used for touring or transporting people or materials, including but not limited to, automobiles,

trucks, trailers, buses, motorized campers, motorcycles, motor scooters, tractors, snowmobiles and their accessories.

8.40(2)(b) Abandoned motor vehicles are defined as a motor vehicle which through disuse and failure to be used remains in one location for a period of 30 days, or a motor vehicle which has been reported stolen to any police department, or a motor vehicle which does not have a current motor vehicle license. (m.fr. §8.24.015)

8.40(3) STORAGE. (a) No disassembled, dismantled, junked, wrecked, inoperable, or unlicensed vehicle or their accessories, shall be stored or allowed to remain on any public property for a period of no more than 48 hours.

8.40(3)(b) No disassembled, dismantled, junked, wrecked, inoperable, or unlicensed vehicle or their accessories, shall be stored or allowed to remain on any private property for a period of no more than 5 days.

8.40(4) EXCEPTIONS. (a) This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed structure or on the premises of a business enterprise operated in a legally zoned area and manner when necessary to the operation of such business enterprise.

8.40(4)(b) Seasonal-use vehicles such as snowmobiles, motorcycles, motor scooters, motorized campers, non-motorized campers, trailers and boats provided such vehicles are stored in rear-yard areas. (m.fr. §8.24.016)

8.40(4m) WRECKED OR JUNKED AUTOS. (a) General. No building or premises in the Village shall hereafter be used for the business of wrecking motor vehicles, or the conduct of motor vehicle junking, except those already in use or operation, without express approval of the Village Board.

8.40(4m)(b) Junk Yards. No junk yard or salvage depot of any nature shall be created or used as such in the Village, except those already in use or operation, without approval by the Village Board. (See also §5.15 of this code)

8.40(5) VIOLATION: PENALTY. Any person, persons or corporation who within 30 days of having been properly notified by the Village Board, violates the provisions of this section shall be punished according to the provisions of §25.04 of this Code. (Amended during 1978 codification; Ord. 83, sec. 3 (part), 1961; Ord. 182, 1987)

LOST AND ABANDONED PROPERTY

[Created during codification 1999]

8.45 DISPOSAL OF LOST AND ABANDONED PROPERTY OTHER THAN VEHICLES.
(1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Police Department by citizens, shall be disposed of according to this section.

8.45(2) Lost and abandoned property will be examined by the Village Police Department for identifying marks in an attempt to determine the owner. If identifying marks are present, they will be used by the Police Department to attempt to contact the owner to return the

property. If no identifying marks are present, the property shall be turned over to the Police Department evidence room and logged in per Police Department policy.

8.45(3) No police officer shall keep for his or her own use, property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.

8.45(4) The Police Department shall permit citizens to claim lost property if they can provide sufficient proof that they are the rightful owners. Also, any person who turns in lost property may claim said property after six (6) months if the rightful owner cannot be located.

8.45(5) Lost or abandoned property shall be disposed of in the following manner:

8.45(5)(a) Pursuant to §66.28, Wis. Stats., the Police Department may hold a sale to dispose of any property which has been abandoned or which remained unclaimed for a period of 6 months after having been taken into possession by the Department. If the property is usable for any Department operation within the Village of Lomira, the property need not be sold at sale but may become property of the Village, or,

8.45(5)(b) The Police Department shall post a public notice at the Police Department. The notice shall be in the same form as required for disposal of abandoned vehicles as set down by §342.40, Wis. Stats.

8.45(6) This shall not prohibit any municipal employee from exercising the same rights as any other citizen to receive any lost, stolen, or unclaimed property signed by the Chief of Police or his designee.

8.45(7) If the Police Department is unable to sell property at public sale as provided herein, or if such property has a value of \$25 or less, as determined by the Chief of Police, and the Chief of Police determines that it would not be economically prudent to attempt to sell this property at public sale, the Chief of Police shall notify the Village Board with a list of such property, inclusive of its estimated fair market value. The Village Board, by majority vote, may direct the Chief of Police to either retain the property to be sold at the next public sale or to donate the property to a charitable non-profit organization within the State of Wisconsin that is registered with the office of the Wisconsin Secretary of State.

SOLID WASTE RECYCLING PROGRAM [RETITLED FROM SOLID WASTE DISPOSAL/RECYCLING]

8.50 SOLID WASTE DISPOSAL AND RECYCLING. (1) PURPOSE. The purpose of this section is to promote recycling, composting, and resource recovery through administration of an effective recycling program, as provided for in §287.11, Wis. Stats., and Wis. Adm. Code Ch. NR 544. (renum.fr. §828.010)

8.50(2) STATUTORY AUTHORITY. This section is adopted as authorized under §287.09(3)(b), Wis. Stats. (renum.fr. §8.28.020)

8.50(3) ABROGATION AND GREATER RESTRICTIONS. It is not intended by this section to abrogate, annul, impair or interfere with any existing rules, regulations, ordinances, or permits previously adopted or issued pursuant to law. However, whenever this section imposes greater restrictions, the provisions of this section shall apply. (renum.fr. §8.28.030)

- 8.50(4) INTERPRETATION. In their interpretation and application, the provisions of this section shall be held to the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this subchapter may be inconsistent or conflicting, the more restrictive requirement interpretation shall apply. Where a provision of this subchapter is required by Wisconsin Statutes, or by a standard in Wis. Adm. Code Ch. NR 544, and where the subchapter provisions is unclear, the provisions shall be interpreted in light of the Wisconsin Statutes and Ch. NR 544 standards in effect on the date of the adoption of this subchapter, or in effect on the date of the most recent text amendment(s) hereto. (renum.fr. §8.28.040)
- 8.50(5) SEVERABILITY. (a) The provisions of this section shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions irrespective of whether or not one or more provisions may be declared invalid. If any provisions or application to any person or circumstances is held invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected.
- 8.50(5)(b) Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder hereof shall not be affected.
- 8.50(6) APPLICABILITY. The requirements of this section apply to all persons within the Village of Lomira.
- 8.50(7) ADMINISTRATION. It shall be the responsibility of the Director of Public Works to administer the content of this section. Items not specifically addressed by this section shall be handled by the Director of Public Works based on common municipal practices. The Director of Public Works and any member of the Village Police Department shall randomly inspect, through contact with service providers and search of garbage left for pickup, for the purpose of determining compliance with this section and are further authorized and empowered to issue citations for violations of any of the provisions hereof. (renum.fr. §8.28.110)
- 8.50(8) EFFECTIVE DATE. The provisions of this section shall take effect upon passage and publication, subsequent to adoption by the Village Board, but not before January 1, 1995. (cr. by Ord. 217, 12/21/94, amended during codification 1999)
- 8.50(9) DEFINITIONS. (a) “Approved Recycling Container” is a red plastic tub available from the Village for the disposal of recyclable materials.
- 8.50(9)(b) “Approved Waste Container” shall be a closed/tied bag furnished by the Village resident for the disposal of non-recyclable materials which are not prohibited from landfills by Ch. 287, Wis. Stats.
- 8.50(9)(c) “Bulk Materials” are items which are impossible or impractical to place in an approved waste container or approved recycling container including household furniture and major appliances but excluding construction debris.
- 8.50(9)(d) “Bulk Refuse Sticker” is a label to be affixed to bulk materials indicating that the fee for disposal of such materials has been paid. Stickers are available from the Village at rates which have been established by the Village Board.

8.50(9)(e) “Hazardous Waste” is any substance or combination of substances including any waste of a solid, semi-solid, liquid or gaseous form which may cause or significantly contribute to any increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Department of Natural Resources.

8.50(9)(f) “Major Appliance” means residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

8.50(9)(g) “Non-Residential Facilities and Properties” means commercial, retail, industrial, institutional and governmental facility and properties. This term does not include multiple family dwellings.

8.50(9)(h) “Office Paper” means high grade printing and writing papers from offices in non-residential facilities and properties. Examples include printed white ledger and computer printouts.

8.50(9)(j) “Person” means an individual, trust, firm, cooperative, institution, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivisions of a state, interest body of federal department, agency or instrumentality.

8.50(k) “Plastic Container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

8.50(L) “Postconsumer Waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in §289.01(17), Wis. Stats.

8.50(9)(m) “Recyclable Materials” shall include: 1. Aluminum cans;

8.50(9)(m)2. Container glass (clear, brown and green);

8.50(9)(m)3. Container plastic (bottles only) including #1 (PETE), #2 (HDPE), #3 (PVC), #4 (LDPE), #5 (PP), #6 (PS), #7 OTHER;

8.50(9)(m)4. Corrugated cardboard which remains in substantially original condition at the time of disposal such that the material is suitable for commercial grade recycling.

8.50(9)(m)5. Ferrous Metal (Tin) cans-steel and bi-metal cans;

8.50(9)(m)6. Magazines, or like glossy papers which remain in substantially original condition at the time of disposal such that the material is suitable for commercial grade recycling.

8.50(9)(m)7. Newspaper, portions of newspapers or periodicals in substantially original condition at the time of disposal such that the material is suitable for commercial grade recycling.

8.50(9)(m)8. Office paper;

8.50(9)(m)9. Polystyrene, packaging foam;

8.50(9)(m)10. Scrap Metal Recyclables – those items consisting of a majority of ferrous metals or aluminum which is suitable for recycling.

8.50(9)(m)11. Used Lead-Acid Vehicle Batteries – which are no longer suitable for its original purpose because of wear, damage or defect.

8.50(9)(m)12. Waste Oil-Engine, hydraulic or gear oil, with NO contaminants of gasoline or solvents.

8.50(9)(m)13. Waste Tires – that portion of a tire which is removed from the rim and is no longer suitable for its original purpose because of wear, damage and defect. (see also §289.55(1)(c), Wis. Stats.)

8.50(9)(m)14. White Goods – appliances including but not limited to refrigerators, freezers, stoves, air conditioners, dish washers, water heaters.

8.50(9)(m)15. Yard Waste – leaves, wood (limbs and brush less than 4 inches in diameter), grass, lawn raking.

8.50(9)(n) “Solid Waste” has the meaning specified in §289.01(33), Wis. Stats.

8.50(10) COLLECTION AND DISPOSAL OF SOLID WASTE. (a) General Provisions. Collection and disposal of non-recyclable solid waste will be provided once each week to one and two-family residential properties in the Village based on routes and schedules approved by the Director of Public Works. Collection and disposal will be limited to non-hazardous wastes placed in approved waste containers. Residential properties with three or more living units, and commercial, industrial and public entities must maintain an approved refuse dumpster and make private arrangements for the collection and disposal of the waste with any licensed waste hauler.

8.50(10)(b) Placement. Refuse shall be placed within 10 feet of the curb or roadside as approved by the Director of Public Works on the day of collection. No refuse shall be placed for collection before 4:00 P.M. on the evening preceding the scheduled day of collection, but must be placed by 7:00 A.M. on the day of collection. Containers must be removed by 8:00 P.M. on the day of collection.

8.50(10)(c) Refuse Bags. Refuse placed in plastic bags shall not exceed 50 pounds in weight. Any bag which is damaged due to overfilling or other cause to the point where it may break if lifted by the top will not be collected, regardless of weight.

8.50(10)(d) Investigation Authority. The Village Public Works Department, together with the Village Police Department shall be responsible for investigating illegal dumping violations and non-compliance with this subchapter, and shall work with the refuse contractor in assuring an effective solid waste recycling program in the Village. (m.fr. §8.28.060)

8.50(11) MANDATORY RECYCLING REQUIREMENTS. (a) Collection Specified.

8.50(11)(a)1. Collection of recyclable glass, metal, plastics, newspapers, glossy paper, office paper and corrugated cardboard will be provided to residential properties with one to four living units once each week on the same day as the regular refuse pickup.

8.50(11)(a)2. Recyclable glass, plastic, and metal shall be placed in approved recycling containers adjacent to regular refuse.

8.50(11)(a)3. Newspapers, magazines, office paper, and corrugated cardboard shall be bundled separately in bundles not exceeding 8 inches in height.

8.50(11)(a)4. Corrugated cardboard shall be cut to no larger than 2' X 2' pieces. Place bundles adjacent to, or on top of the approved recycling container.

8.50(11)(a)5. All recyclable material shall be kept clean and free of contamination by food or other product residue, grease and oil, or any hazardous or infectious waste.
(num.and recr. fr. §8.28.070)

8.50(11)(b) Mandatory Separation. (Cr. During codification 1999) Effective October 1, 1999, the occupants of single-family residences, buildings containing 2 or more dwelling units and commercial, retail, industrial and governmental facilities within the Village shall separate the materials identified in §287.07(3) and (4), Wis. Stats., and §8.50(9)(m), of this code from postconsumer waste generated in the Village.

8.50(11)(c) Owners of Buildings Containing 5 or More Dwelling Units. (Cr. During codification 1999) Effective October 1, 1999 owners of buildings containing 5 or more dwelling units within the Village shall do all of the following: 1. Provide adequate, separate containers for the program established under par. (b).

8.50(11)(c)2. Notify tenants at the time of renting or leasing the dwelling, and at least semi-annually thereafter, about the established recycling program.

8.50(11)(c)3. Provide for the collection of the recyclable materials separated from the solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

8.50(11)(c)4. Notify tenants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation and a contact person or company, including name, address and telephone number.

8.50(11)(d) Commercial, Retail, Industrial and Governmental Facilities. Effective October 1, 1999 owners of commercial, retail, industrial and governmental facilities within the Village shall do all of the following: 1. Provide adequate, separate containers for the program established under par. (b).

8.50(11)(d)2. Regularly notify all users and occupants of the facilities of the recycling program.

8.50(11)(d)3. Provide for the collection of the recyclable materials separated from the solid waste by the users and occupants and the delivery of the recyclable materials to a recycling facility.

8.50(11)(e) Waste Oil, Tires, and Lead Acid Batteries. Waste oil, tires, and lead acid (automotive) batteries shall not be collected by the Village or its refuse contractor. These materials must be disposed of in accordance with Ch. 287, Wis. Stats., through local retailers which sell these products.

8.50(11)(f) Yard Waste Collection. Yard waste will be collected by public works personnel on the same day as regular refuse collection from all properties in the Village.

8.50(11)(f)1. Yard waste shall be placed curbside or roadside adjacent to other refuse. Brush no larger than 4" in diameter shall be stacked in neat piles with the butt ends all in one direction.

8.50(11)(f)2. Brush shall be cut to no longer than 10 feet, and no shorter than 3 feet. Yokes in individual branches over one and one-half inches in diameter shall be cut to facilitate chipping.

8.50(11)(f)3. Other yard waste such as grass clippings, leaves, and garden waste shall be placed in sturdy containers weighing not more than 50 pounds each.

8.50(11)(f)4. Animal wastes or other materials with exceptional odor are prohibited from the yard waste collection. (num.fr. §8.28.090)

8.50(11)(g) Bulk Material Disposal. Items which are impossible or impractical to place in approved containers will be collected by the refuse contractor provided that they have a bulk material sticker affixed to the object. One sticker will be required for each bulk item. The stickers are available from the Village Clerk/Treasurer for a fee to be established by the Village Board. (renum.fr. §8.28.080)

8.50(12) PREPARATION AND CARE OF SEPARATED RECYCLABLE MATERIAL. The following recyclables must be prepared as indicated prior to a collection or being deposited at a collection point; (a) Aluminum cans (including beer and soda) – rinse clean and flatten.

8.50(12)(b) Container glass (bottles and jars) – rinse clean, remove caps and neck rings, sort by color (clear, brown and green).

8.50(12)(c) Container plastic – thin necked #1 (PETE), #2 (HDPE), #3 (PVC), #4 (LDPE), #5 (PP), #6 (PS) #7 (OTHER), rinse clean, remove caps, covers and neck rings.

8.50(12)(d) Corrugated cardboard – flatten boxes cut to 24" X 24" pieces, bundle with twine, keep dry.

8.50(12)(e) Ferrous metal cans (tin cans) – remove labels, rinse clean, ends removed and flatten.

8.50(12)(f) Office paper (business paper) – same as newspaper.

8.50(12)(g) Magazines, catalogs, - keep dry, stack in boxes, or tie in bundles.

8.50(12)(h) Newspaper – remove glossy inserts, keep dry, bundle with twine in both directions, bundle with bundles no high than 8".

8.50(12)(j) Used lead acid vehicle batteries shall be exchanged at a battery dealer, or dropped off at a recycling center which accepts batteries.

8.50(12)(jm) Flashlight and other batteries are not recyclable.

8.50(12)(k) Waste (motor) oil may be disposed of at retailers who sell oil, or by depositing in the waste oil container located behind the Village Municipal Building located at 549 Church Street, Village. Motor oil must be free of antifreeze, paint and gasoline.

8.50(13) **CLEANING AND STORAGE.** (Cr. during codification 1999) To the greatest extent practicable, the recyclable materials separated in accordance with subs. (11) and (12), shall be cleaned and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

8.50(14) **UNLAWFUL DISPOSAL.** (Cr. during codification 1999) It shall be unlawful and a violation of this subchapter for any person to dispose of any separated recyclable material except as authorized by variance granted by the Wisconsin Department of Natural Resources.

8.50(15) **SEPARATION AND PREPARATION REQUIRED.** (Cr. during codification 1999) It shall be unlawful and a violation of this subchapter for any person to fail to separate and properly prepare recyclable materials from their solid waste as required by §287.11(2)(b)(c) and (d), Wis. Stats., and this subchapter. (Recor. Fr. §8.28.070[partial] as affected by 1997 Wis. Act 27., allows for transition to requirements of Wis. Stats., eff. 10/99)

8.50(16) **PREPARATION AND PUBLICATION OF PROGRAM MATERIALS.** (a) Village Board Directives. The Village Board may, from time to time, subsequent to adoption, provide for the publication of additional directives governing the Village's recycling program.

8.50(16)(b) Publication and Notification Specified. (Cr. during codification 1999) The revised directives authorized under this section may include, exclude or further define acceptable processes and procedures for preparation and collection of separated materials. All such further revisions thereto, as made by the Village Board shall thereafter be published by way of legal notice in a local newspaper and/or mailed directly to occupants of residential households, following which all such changes in directives dealing with preparation and collection of recyclable materials shall then be considered adopted herein by reference. Copies of such revisions shall be kept on file in the office of the Village Clerk/Treasurer.

8.50(17) **PROVIDE SPACE FOR RECYCLING IN PUBLIC BUILDINGS.** (Cr. during codification 1999) A person or other legal entity in the Village owning and/or occupying a new building or a building that is remodeled or expanded by 50% or more in floor area shall provide a designated area for the separation, temporary storage and collection of solid waste and recyclables either with or adjacent to the building as specified in Wis. Adm Code Chs. Comm (formerly ILHR) 54062.

8.51 **PROHIBITED DISPOSAL PRACTICES.** No person, firm, or corporation shall engage in any of the following activities within the Village of Lomira, subject to penalty of law: (1) Dispose of any recyclable materials which have been separated for recycling by

landfilling or incinerating, except waste tires, which may be incinerated with energy recovery or under the direct control of the person, firm, or corporation.

8.51(2) Attempt to conceal recyclable material with non-recyclables.

8.51(3) Place non-recyclable material in the recycling container.

8.51(4) Dispose of non-recyclable materials in any location other than a licensed solid waste landfill. (rn.fm. §8.28.100)

8.52 VIOLATION. Upon determining that a violation exists with the requirements of this subchapter, materials in violation at curbside shall be tagged with a notice informing the property owner or occupant of the violation and corrective action required. If tagged, the materials shall be removed from the curb by 8:00 P.M. on the day of collection by the property owner or occupant. The violation shall be corrected and the material may be placed curbside at the next regular pickup. No special pickups are to be made for materials which were in violation. Repeated violations will result in issuance of a citation under §8.55, of this code. (renum.fr. §8.28.120)

8.55 ENFORCEMENT. (Created during codification 1999) (1) PURPOSE. For the purpose of determining compliance with the provisions of this subchapter, the Director of Public Works, Village Police Officers or any authorized officer, employee or representative of the Village, as appointed from time to time by the Village Board, may inspect recyclable materials separated for recycling, solid waste intended for landfill disposal, recycling collection sites and facilities and collection vehicles relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person, corporation or other form of legal/business entity may refuse access to any authorized officer, employee or representative of the Village who seeks access for purposes of said inspection and who presents the appropriate credentials. No person, corporation or other form of legal/business entity may obstruct, hamper or interfere with such an inspection.

8.55(2) CITATIONS. (a) Issuance Authorized. Citations may be issued by the Village for any violation of this subchapter, including any part of this subchapter for which a statutory violation counterpart exists.

8.55(2)(b) Information Required. The citation shall contain the following: 1. Name and address of the alleged violator.

8.55(2)(b)2. The actual allegations describing the alleged violation.

8.55(2)(b)3. The time and place of the alleged offense.

8.55(2)(b)4. The subsection of this section as alleged to have been violated.

8.55(2)(b)5. A designation of the offense.

8.55(2)(b)6. The time at which the alleged violator shall appear in court.

8.55(2)(b)7. A statement which, in essence, informs the alleged violator: a. That a cash deposit, based on the schedule as established, from time to time, by the Village Board and as is on file in the office of the Village Clerk/Treasurer and the office of the Public Works Director, be paid in the form of cash, money order or check to and deposited with

the Village Clerk/Treasurer who shall provide a receipt thereof prior to the time of the scheduled court appearance.

8.55(2)(b)7.b. That if a deposit is so made, no appearance in court is necessary unless the violator is subsequently summoned.

8.55(2)(b)7.c. That if a cash deposit is made and the alleged violator does not appear in court, the violator will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding the violator to appear in court to answer the complaint.

8.55(2)(b)7.d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.

8.55(2)(b)7.e. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under sub. 7 above has been read. Such statement shall be sent or brought with the cash deposit.

8.55(2)(b)7.f. Such other information as the Village deems necessary.

8.55(2)(c) Procedure. Section 66.119(3), Wis. Stats., relating to a violator's option and procedures on default is hereby adopted and by reference is made a part hereof with the same force and effect as though set out in full herein.

8.55(3) **NONEXCLUSIVITY.** (a) Other Ordinance. This section does not preclude the Village Board from adopting any other ordinances or providing for the enforcement of any law or ordinance relating to the same or other matter.

8.55(3)(b) Other Remedies. The issuance of a citation hereunder shall not preclude the Village and/or the Public Works Division from proceeding under any other ordinance or law or by any other enforcement method, including but not limited to the ability to refuse acceptance of loads containing prohibited materials, to enforce any terms or conditions of this subchapter.

8.55(4) **PENALTIES AND FORFEITURES.** Hereinafter, the term "person" shall apply to any natural person, any partnership, corporation or any other type of business entity. Penalties/forfeitures for violation for this subchapter may be assessed as follows:

8.55(4)(a) Any person who violates any provision of this subchapter shall be subject to a forfeiture of not less than \$50 for the first violation thereof, not less than \$100 for a second violation thereof and not more than \$500 for a third and/or subsequent violation thereof.

8.55(4)(b) Nothing contained herein shall prohibit an attorney from acting on behalf of and at the direction of the Village and/or the Public Works Division from applying to a court of competent jurisdiction for a temporary or permanent injunction, restraining any person from violating any term, condition or covenant in this subchapter.

8.55(4)(c) Any person who violates any term, condition or covenant of this subchapter, and upon conviction thereof (or stipulated forfeiture), in addition to the forfeiture set forth herein, shall pay all costs of prosecution.

8.55(4)(d) Any person who violates any provision of this subchapter, and who fails to pay any forfeiture required herein, including any default in payment of such forfeiture and/or costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but such incarceration shall not exceed 90 days.

8.55(4)(e) Each violation and each day a violation continues of this subchapter shall constitute a separate offense.

8.55(4)(f) Nothing herein contained shall preclude or affect the power of a sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

8.55(4)(g) That by addition of this section, the Village Board does hereby adopt a cash deposit schedule as follows: 1. \$50 for a first violation of this subchapter.

8.55(4)(g)2. \$100 for a second violation of this subchapter.

8.55(4)(g)3. \$500 for a third violation of this subchapter.

8.55(5) ENFORCEMENT OF UNPAID FORFEITURE-SUSPENSION OF DRIVER'S LICENSE. Subs. 66.12(1)(c), Wis. Stats., is adopted and by reference is made a part of this subchapter with the same force and effect as though set out in full herein, allowing the Court to utilize §800.09(1)(c), Wis. Stats., "Suspension of Defendant's Operating Privileges (driver's license)," as a method to enforce compliance with the forfeiture section of this subchapter.

Chapter 9

PUBLIC PEACE AND ORDER

9.01	Purpose
9.02	Offenses Against State Laws Subject to Forfeiture
9.03	Offenses Endangering Public Safety
9.04	Obstruction of Fire Extinguishment
9.05	Offenses Against Public and Private Property
9.08	Obedience to Officers
9.12	Impersonating Police Officer
9.16	Aiding Escape of Prisoners
9.24	Nude Dancing in Licensed Establishments
9.25	Adult-Oriented Establishments
9.36	Offenses Against Public Peace-Curfew
9.37	Possession of Controlled Substances
9.38	Possession, Manufacture and Delivery of Drug Paraphernalia Prohibited
9.42	Trespassing on Village Property
9.70	Truancy
9.80	Discharging and Carrying Weapons
9.81	Sexual Offender Residency Restrictions

AGREEMENT TO CONTROL TRAFFIC ON SCHOOL PREMISES

WHEREAS, the SCHOOL DISTRICT OF LOMIRA, LOMIRA, WISCONSIN, has declared that it is in the best interest of the said School District for uniform traffic control of all public ways, parking lots and thoroughfares owned by the SCHOOL DISTRICT OF LOMIRA and located within the Village of Lomira and;

WHEREAS, the Village Council of the Village of Lomira has agreed to provide traffic control over such thoroughfares, parking areas and property owned by the SCHOOL DISTRICT OF LOMIRA in accordance with Section 118.105 Wisconsin Statutes, 1975, and;

WHEREAS, the Village Council of the Village of Lomira has a proposed Ordinance providing for the regulation of traffic on such property owned by the SCHOOL DISTRICT OF LOMIRA and that it is in the public interest for the Village of Lomira to provide such traffic control and uniform traffic regulation.

THEREFORE, IT IS HEREBY AGREED, by and between the parties hereto and attested to by their signatures affixed hereunder that the Village of Lomira shall provide traffic control and regulation of those thoroughfares, ways and parking areas owned by the SCHOOL DISTRICT OF LOMIRA and an Ordinance shall be adopted regulating those areas in conformance with the traffic regulations heretofore adopted by the Village of Lomira and those Ordinances adopting by reference State Statutes dealing with the regulation of vehicular and pedestrian traffic.

9.01 PURPOSE. This chapter is enacted to promote the health, safety, morals, prosperity, aesthetics, public peace, order, and general welfare of the people within the Village of Lomira.

9.02 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. (1) STATE STATUTES ADOPTED. The statutory provisions following the prefix “9” describing and defining offenses against the peace and good order of the State and their successors are adopted by reference, as if fully set forth herein, to define offenses against the peace and good order of the Village of Lomira, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under sub. (2).

9.29.601(3)	Noxious substances/deleterious substances
9.110.075(7)	Producing/using inspection sticker fraudulently
9.134.06	Motor vehicle sales/bonus to chauffeur prohibited
9.285.30(6)	Tampering with pollution control system or mechanism
9.167.32	Safety at sporting events

9.175.25	Illegal storage of junked vehicles
9.218.0147	Purchase or lease of motor vehicle by minor
9.254.92	Purchase/possession of cigarettes or tobacco products by person under 18 prohibited
9.939.05	Parties to crime
9.939.22	Words and phrases defined, criminal code
9.939.32	Attempt to commit felony or battery or theft
9.940.19	Battery; substantial and aggravated
9.940.195	Battery to an unborn child; substantial battery to an unborn child; aggravated battery to an unborn child
9.940.20	Battery; special circumstances
9.940.201	Battery or threat to witnesses
9.940.21	Mayhem
9.940.225	Sexual Assault
9.940.23	Reckless injury
9.940.24	Injury by negligent handling of dangerous weapon, explosives or fire
9.940.25	Injury by intoxicated use of a vehicle
9.940.285	Abuse of individuals at risk
9.940.295	Abuse and neglect of patients and residents
9.940.30	False imprisonment
9.940.302	Human trafficking
9.940.305	Taking hostages
9.940.31	Kidnapping
9.940.32	Stalking
9.940.34	Duty or aid victim or report crime
9.940.41	Definitions
9.940.42	Intimidation of witnesses; misdemeanor
9.940.44	Intimidation of victims; misdemeanor
9.940.46	Attempt prosecuted as completed act
9.940.47	Court orders
9.940.48	Violation of court orders
9.941.01	Negligent operation of vehicle
9.941.10	Negligent handling of burning material
9.941.11	Unsafe burning of buildings
9.941.12	Interfering with firefighting
9.941.13	False alarms
9.941.20	Endangering safety by use of dangerous weapon
9.941.21	Disarming a peace officer
9.941.23	Carrying concealed weapon
9.941.231	Carrying a concealed knife
9.941.235	Carrying a firearm in public building
9.941.237	Carrying handgun where alcohol beverages may be sold and consumed
9.941.29	Possession of a firearm
9.941.2965	Restrictions on use of facsimile firearms
9.941.299	Restrictions on the use of laser pointers
9.941.30	Recklessly endangering safety
9.941.31	Possession of explosives
9.941.315	Possession distribution or delivery of nitrous oxide
9.941.316	Abuse of hazardous substance
9.941.32	Administering dangerous or stupefying drug
9.941.325	Placing foreign objects in edibles
9.941.327	Tampering with household products

9.941.35	Emergency telephone calls
9.941.36	Fraudulent tapping of electric wires or gas or water meters or pipes
9.941.37	Obstructing emergency or rescue personnel
9.941.375	Throwing or discharging bodily fluids at public safety workers
9.941.38	Criminal gang member solicitation and contact
9.941.39	Victim, witness, or co-actor contact
9.943.01	Damage to property
9.943.011	Damage or threat to property of witness
9.943.012	Criminal damage to or graffiti on religious and other property
9.943.017	Graffiti
9.943.02	Arson of buildings; damage of property by explosives
9.943.03	Arson of property other than building
9.943.06	Molotov cocktails
9.943.07	Criminal damage to railroads
9.943.10	Burglary
9.943.11	Entry into locked vehicle
9.943.12	Possession of burglarious tools
9.943.125	Entry into locked coin box
9.943.13	Trespass to land
9.943.14	Criminal trespass to dwellings
9.943.15	Entry onto a construction site or into a locked building, dwelling or room
9.943.20	Theft
9.943.201	Unauthorized use of an individual's personal identifying information or documents
9.943.21	Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator or gas station
9.943.22	Use of cheating tokens
9.943.23	Operating vehicle without owner's consent
9.943.24	Issuance of worthless check
9.943.30	Threats to injure or accuse of crime
9.943.32	Robbery
9.943.34	Receiving stolen property
9.943.37	Alteration of property identification marks
9.943.38	Forgery
9.943.39	Fraudulent writings
9.943.41	Financial transaction card crimes
9.943.45	Theft of telecommunications service
9.943.455	Theft of commercial mobile service
9.943.46	Theft of video service
9.943.47	Theft of satellite programming service
9.943.50	Retail theft; theft of services
9.943.55	Removal of shopping cart
9.943.61	Theft of library material
9.943.70	Computer crimes
9.944.15	Public fornication
9.944.17	Sexual gratification
9.944.20	Lewd and lascivious behavior
9.944.21	Obscene material or performance
9.944.25	Sending obscene or sexually explicit electronic messages
9.944.30	Prostitution
9.944.31	Patronizing prostitutes
9.944.32	Soliciting prostitutes

9.944.33	Pandering
9.944.34	Keeping place of prostitution
9.944.36	Solicitation of drinks prohibited
9.945.02	Gambling
9.945.03	Commercial gambling
9.945.04	Permitting premises to be used for commercial gambling
9.946.32	False swearing
9.946.40	Refusing to aid officer
9.946.41	Resisting or obstructing an officer
9.946.415	Failure to comply with officer's attempt to take person into custody
9.946.42(1), (2)	Intentional escapes under certain circumstances (See Sec. 9.08(3) of Code)
9.946.46	Encouraging violation of probation, extended supervision or parole
9.46.47	Harboring or adding felons
9.46.495	Violation of non-secure custody order
9.946.65	Obstructing justice
9.946.66	False complaints of police misconduct
9.946.68	Simulating legal process
9.946.69	Falsely assuming to act as a public officer, employee or a utility employee
9.946.70	Impersonating peace officers, fire fighters or other emergency personnel
9.946.71	Unlawful use of license for carrying concealed weapons
9.946.72	Tampering with public records and notices
9.947.01	Disorderly conduct
9.947.012	Unlawful use of telephone
9.947.0125	Unlawful use of computerized communication systems
9.947.013	Harassment
9.947.015	Bomb scares
9.947.017	Threats to release chemical biological or radioactive substances
9.947.012	Terrorist threats
9.947.02	Vagrancy
9.947.06	Unlawful assemblies and their suppression
9.947.07	Causing violence or breach of peace by damaging or destroying a U.S. flag
9.948.02	Sexual assault of a child
9.948.03	Physical abuse of a child
9.948.04	Causing mental harm to a child
9.948.05	Sexual exploitation of a child
9.948.051	Trafficking of a child
9.948.055	Causing a child to view or listen to sexual activity
9.948.07	Child enticement
9.948.075	Use of a computer to facilitate a child sex crime
9.948.09	Sexual intercourse with a child age 16 or older
9.948.10	Exposing genitals, pubic area or intimate parts
9.948.11	Exposing a child to harmful material or harmful descriptions or narrations
9.948.12	Possession of child pornography
9.948.20	Abandonment of a child
9.948.21	Neglecting a child
9.948.31	Interference with custody by parent or others
9.948.40	Contributing to the delinquency of a child
9.948.45	Contributing to truancy
9.948.50	Strip searches by school employees
9.948.51	Hazing
9.948.53	Child unattended in child care vehicle
9.948.55	Leaving or storing a loaded firearm within reach or easy access of a child

9.948.60	Possession of a dangerous weapon by a person under 18
9.948.61	Dangerous weapons other than firearms on school premises
9.948.62	Receiving stolen property from a child
9.948.63	Receiving property from a child
9.951.01-9.951.18	Crimes against animals (See also Ch. 6 of this code)
9.961.41	Prohibited acts A - penalties
9.961.41(2)	Possession/attempted possession of counterfeit substances prohibited
9.961.41(3g)	Possession of controlled substance (See Sec. 9.37 of Code)
9.961.42	Prohibited acts B - penalties
9.961.43	Prohibited acts C – penalties
9.961.453	Purchases of pseudoephedrine products on behalf of another person
9.961.46	Distribution to persons under age 18
9.961.472	Assessment; certain possession or attempted possession offenses
9.961.495	Possession or attempted possession of a controlled substance on or near certain places
9.961.50	Suspension or revocation of operating privilege
9.961.53	Violations constituting public nuisance
9.961.571	Definitions – drug paraphernalia (See Sec. 9.38(2) of Code)
9.961.572	Determination – drug paraphernalia (See Sec. 9.38(3) of Code)
9.961.573	Possession of drug paraphernalia (See Sec. 9.38 of Code)
9.961.574	Manufacture or delivery of drug paraphernalia (See Sec. 9.38(4) of Code)
9.961.575	Delivery of drug paraphernalia to a minor (See Sec. 9.38(4) of Code)
9.961.65	Possessing materials for manufacturing methamphetamine

9.02(1)(a) First Offense. Any person who shall violate any provision hereof shall, upon conviction thereof, forfeit not less than \$8 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.

9.02(1)(b) Second Offense. Any person found guilty of violating any provisions hereof, who has previously been convicted of a violation of the same provision within one year shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the Dodge County Jail until such forfeiture and costs are paid, but not exceeding 6 months.

9.02(1)(c) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in the Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

9.02(1)(d) Execution Against Defendant's Property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any provisions hereof, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

9.03 OFFENSES ENDANGERING PUBLIC SAFETY. (1) HORSES PROHIBITED. (a) General. No person shall ride or lead a horse on any of the streets, roadways or alleys in the Village of Lomira. This Section shall not apply to participants in parades or other authorized events sanctioned or permitted by the Village.

9.03(1)(b) Penalties. Any person violating this subsection may be required to forfeit not less than \$10.00 nor more than \$200.

9.03(2) POSSESSION OF HAND GUNS IN PUBLIC BUILDINGS. (a) Definitions.

9.03(2)(a)1. “Handgun” shall be defined as in §175.35, Wis. Stats., or its successor.

9.03(2)(a)2. “Public Building” shall mean any church, school, store, (except stores in which handguns are sold), office, Village-owned building, tavern, restaurant or other building in which the public is allowed to congregate.

9.03(2)(b) Prohibitions. 1. No person shall enter or remain in any public building located within the Village of Lomira while in possession of any handgun. This prohibition applies to all handguns, including those in cases, holsters, and other enclosures,

9.03(2)(b)2. No parent or adult guardian shall permit his or her child or ward to violate this subsection.

9.03(2)(c) Exceptions. 1. The owner of any public building other than a Village-owned building, or such owner’s authorized employee, may keep handguns on his premises as a means of protecting himself, his patrons, and his property.

9.03(2)(c)2. Nothing in this subsection shall be construed to limit the right of duly-authorized peace officers to possess handguns while on duty.

9.03(2)(d) Penalties. See Ch. 25, this Code.

9.03(3) SALE AND DISCHARGE OF FIREWORKS RESTRICTED. (a) State Law Adopted. Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby is adopted by reference and made a part of this subsection as if fully set forth herein.

9.03(3)(b) Fireworks Permits. See Chapter 19.70

9.03(4) AIRCRAFT REGULATIONS. No person operating an aircraft over the Village shall: (a) Engage in trick or aerobatic flying.

9.03(4)(b) Except for the purpose of taking off or landing, operate at a height of less than 1000 feet.

9.03(4)(c) Drop any object except loose water or loose sand ballast and then only in case of an emergency.

9.03(5) VEHICLES AND PLAY VEHICLES PROHIBITED. Vehicles and play vehicles are prohibited from being ridden on any Village of Lomira sidewalk except those sidewalks that may be specifically designated by the Village of Lomira Board for vehicle and play vehicle usage. Such designations by the Board of the Village of Lomira shall be filed with the Village of Lomira Clerk and Village of Lomira Chief of Police. Vehicles and play vehicles included in this section but are not limited to any vehicle powered electrically or through the use of any form of internal combustion engine and bicycles. Skateboards, scooters, roller skates, roller blades and in line skates are allowed on

sidewalks but must be operated in a safe manner. This section does not apply to persons under the age of ten unless the vehicle or play vehicle has an internal combustion engine.

9.03(5)(a) In-Line-Skates. 1. “In-Line-Skates” has the meaning in §340.01(2m), Wis. Stats. In-line-skates do not include roller skates.

9.03(5)(a)2. Persons riding in-line-skates on roadways shall ride single file and as close to the right-hand curb as is possible. A. Persons riding in-line-skates shall do so in a careful and prudent manner and with due regard for the safety of all persons using the roadway.

9.03(5)(a)2.b. No person riding in-line-skates shall attach the skates or themselves to any moving vehicle.

9.03(5)(a)2.c. No person shall ride in-line-skates while holding a leash attached to any animal.

9.03(5)(a)3. Persons riding in-line-skates on roadways shall obey the provisions of all ordinances and state laws applicable to the operator of any vehicle, except those provisions which by their nature would have not application.

9.03(5)(a)4. No person shall ride in-line-skates on roadways within the Village limits during the hours of darkness.

9.03(5)(a)5. Persons riding in-line-skates may travel on any roadway within the Village limits except for: State Highway 67 (Church Street); State Highway 175 (Milwaukee Street); and, on Main Street between Pleasant Hill Avenue and Railroad Street.

9.03(5)(b) Penalty. 1. First Offense. If a juvenile, requires a conference between the police department, the juvenile and the child’s parents or guardian. If an adult, the penalty shall be the same as for a second offense.

9.03(5)(b)2. Second Offense. If a juvenile, requires a conference between the police department, the juvenile and the child’s parents or guardian plus \$25 penalty and court costs.

9.03(5)(b)3. Third Offense. If a juvenile, requires a conference between the police department, the juvenile and the child’s parents or guardian plus \$5 penalty and court costs.

9.03(6) FALSE FIRE ALARMS. (a) Prohibited. No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false. (Ord. 101 §4, 1970 and recr. fr. §9.02.010)

9.03(6)(b) Violation And Penalty. For violation of the provisions of this chapter, see Ch. 25 of this Code. (Amended during 1978 codification: Ord. 101 §8[part], 1970 and recr. fr. §9.02.020)

9.04 OBSTRUCTION OF FIRE EXTINGUISHMENT. (1) FOLLOWING FIRE APPARATUS. It is unlawful for the operator of any vehicle other than belonging to a firefighter to follow closer than five hundred feet, or drive or park any vehicle within the block or immediate area where fire apparatus has stopped in response to an alarm of fire. (Ord. 115 §6(b) (2), 1975 and recr. fr. §9.04.010)

9.04(2) REFUSING TO ASSIST AND OBSTRUCTING FIREFIGHTERS. (a) Any person who refuses to render assistance when called on by an officer at a fire, or who refuses to obey any lawful order of any officer of the department while on duty at a fire, or who interferes with the lawful efforts of firefighters to extinguish a fire, is guilty of a misdemeanor and subject to the penalty provisions set forth in Ch. 25 of this Code, as authorized by §§941.12(2) and 941.13(3), Wis. Stats.

9.04(2)(b) These statutes also provide that persons who obstruct fire hydrants by piling or dumping material near them without permission from the appropriate municipal authority are subject to criminal penalties as authorized in §941.12(1), Wis. Stats., (Amended during 1978 codification; Ord. 115 §5(a)(part), 1975 and recr. fr. §9.04.020)

9.04(3) FIREFIGHTING APPARATUS: INJURING AND DRIVING OVER HOSE. No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the Village. No vehicle shall be driven over any unprotected hose of the fire department when laid down on any street, private driveway, or other place to be used at any fire or alarm of fire, or other emergency, without the consent of the fire department official in command. (Ord. 115 §4(3), 1975 and §9.04.030)

9.04(4) VIOLATION AND PENALTY. Any person violating any of the provisions of this chapter shall, on conviction thereof, be subject to the procedure set forth in Ch. 25 of this Code. (Amended during 1978 codification: Ord. 115 §7(d)(part), 1975 and §9.04.040)

9.08 OBEDIENCE TO OFFICERS. (1) DEFINITIONS. In this section: (a) “Obstructs” includes without limitation knowingly giving false information to the officer with intent to mislead him in the performance of his duty including the service of any summons or civil process.

9.08(1)(b) “Officer” means a peace officer or other public officer or public employee having the authority by virtue of his employment to take another into custody. (recr. fr. §9.08.015)

9.08(2) REQUIRED. No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the Village while such officer is doing any act in his official capacity and with lawful authority. (Ord. 101 §5, 1970 and §9.08.010)

9.08(3) RESISTING OR OBSTRUCTING OFFICER. (a) Whoever knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority, is guilty of a Class A misdemeanor.

9.08(3)(b) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or his superior for any damages adjudged against either of them by reason thereof. (Amended Ord. 177, 1985 and recr. fr. §9.08.015)

9.08(4) VIOLATION AND PENALTY. The penalty for the violation of the provisions of this Section is set forth in Ch. 25 of this code. (Amended during 1978 codification; Ord. 101 §8 (part), 1970 and recr. §9.12.020)

9.12 IMPERSONATING POLICE OFFICER. (1) PROHIBITED. No person shall impersonate a police officer or peace officer within the Village. (Ord. 101 §7, 1970 and §9.12.010)

- 9.12(2) VIOLATION AND PENALTY. The penalty for violation of the provision of this chapter is set forth in Ch. 25 of this Code. (Amended during 1978 codification: Ord. 101 §8[part], 1970 and §9.12.020)
- 9.16 AIDING ESCAPE OF PRISONERS. (1) PROHIBITED. No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the Village. (Ord. 101 §6, 1970 and recre. Fr. §9.16.010)
- 9.16(2) VIOLATION AND PENALTY. The penalty for violation of the provision of this chapter is set forth in Ch. 25 of this Code. (Amended during 1978 codification: Ord. 101 §8(part), 1970 and recre. fr. §9.16.020)
- 9.20 OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY. (1) LIQUOR PROHIBITED ON SCHOOL PROPERTY. (a) It shall be unlawful for any person to bring intoxicating liquor or fermented malt beverages into any building or onto any premises under the jurisdiction, supervision, management and control of the School District of Lomira.
- 9.20(1)(b) Any person violating the provisions of this subsection shall, upon conviction, forfeit an amount not to exceed one hundred dollars \$100.
- 9.20(2) SMOKING PROHIBITED ON SCHOOL PREMISES. (a) It shall be unlawful for any person to use any tobacco products or material that can be smoked in any building or on any premises under the jurisdiction, supervision, management and control of the Lomira School District, including the FAA Greenhouse and any vehicle used for school purposes and including in any vehicle located on School District premises located within the Village.
- 9.20(2)(b) Any person violating the provisions of this subsection shall, upon conviction, pay a forfeiture of \$25 for the first offense, and \$50 for any subsequent offense.
- 9.20(3) UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY. (a) No person who is not a student or parent of a student or an employee of School District of Lomira or Lomira High School may be present during normal school hours on property of that district located within the Village without the authorization of the district administrator, his authorized agent or the building principal.
- 9.20(3)(b) Any person who violated sub. (a) who refused to leave such property upon request by the district administrator or his authorized agent or any person aiding, counseling or abetting another to violate sub. (a) may be punished as provided herein.
- 9.20(3)(c) The school district administrator shall cause to be permanently displayed at all main entrances to the grounds and buildings of the affected school district property herein a sign stating the content of sub. (a).
- 9.20(3)(d) Any person who shall violate any provision of this subsection shall upon conviction for the first offense forfeit a sum not less than \$25 nor more than \$50 together with the cost of prosecution and upon conviction for the second and subsequent offenses forfeit a sum not less than \$50 nor more than \$100 together with the costs of prosecution.
- 9.20(4) SMOKING PROHIBITED IN VILLAGE OF LOMIRA MUNICIPAL BUILDING. (a) It shall be unlawful for any person to use any tobacco products or material that can be smoked in the Village of Lomira Municipal Building.

9.20(4)(b) Any person violating the provisions of this subsection shall, upon conviction, pay a forfeiture of \$225 for the first offense; and \$50 for any subsequent offense.

9.20(5) PROHIBITION OF SIDEWALK SALES. (a) No person shall purchase or sell, or offer to purchase or to sell, on any street, sidewalk, or alley or other public place within any commercial area in the Village, anything of value or service of any kind, except in connection with a Village-wide enterprise or promotion of community trade.

9.20(5)(b) Any person who shall violate any provisions of this subsection shall be subject to a forfeiture of not less than \$10 nor more than \$100, together with costs of prosecution, and upon failure to pay such forfeiture be imprisoned in the County Jail of Dodge County, for not more than 30 days, and every day of any violation shall constitute a separate offense.

9.20(6) SHOPLIFTING. (a) Whoever intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without his consent and with intent to deprive the merchant permanently of possession, or the full purchase price, of such merchandise may be penalized as provided in sub. (d).

9.20(6)(b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

9.20(6)(c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this subsection in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he shall not be interrogated or searched against his will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

9.20(6)(d) Penalties for violation of this subsection are as follows:

9.20(6)(d)1. A forfeiture of not less than \$100 nor more than \$500, if the value of the merchandise does not exceed \$200.

9.20(6)(d)2. A forfeiture of not less than \$300 nor more than \$1,000, if the value of the merchandise exceeds \$200.

9.20(7) LOITERING ON POSTED PRIVATE PROPERTY. (a) It shall be unlawful for any person to congregate, loiter, wander, stroll or stand upon any private property in the Village of Lomira which has been posted with a notice stating "No Loitering", "Patrons Only", or other notice indicating that the said property is not a thoroughfare for the use of

the general public. Such notice shall be at least 12 inches by 18 inches in size, or of comparable area, and plainly posted at least one to each property intended to be so posted. This subsection shall include loitering in parked motor vehicles.

9.20(7)(b) Any person who shall violate this subsection shall forfeit no more than \$25 and the cost of prosecution for the first offense and not more than \$50 and the cost of prosecution for each subsequent offense.

- 9.24 NUDE DANCING IN LICENSED ESTABLISHMENTS. (Created during Codification 1999) (1) AUTHORITY AND INTENT. (a) Statutory Authority. This section is created in accordance with the authority granted under §§125.10(1) and 61.34(1), Wis. Stats. 9.24(1)(b) Secondary Effects. The Village Board is aware, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the Village Board believes are detrimental to the public health, safety and welfare of the citizens of the Village of Lomira. The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village; protect citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and, deter the spread of urban blight.
- 9.24(2) DEFINITIONS. (a) Licensed Establishment. For purposes of this ordinance, the term “licensed establishment” means any establishment licensed by the Village Board of the Village of Lomira to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.
- 9.24(2)(b) Licensee. The term “licensee” means the holder of a retail “Class A”, “Class B” or Class “C” license granted by the Village Board of the Village of Lomira pursuant to Ch. 125, Wis. Stats.
- 9.24(3) NUDE DANCING IN LICENSED ESTABLISHMENTS PROHIBITED. It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition the premises of a licensed establishment which:
- 9.24(3)(a) Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or
- 9.24(3)(b) Shows any portion of the female breast below a point immediately above the top of the areola; or
- 9.24(3)(c) Shows the covered male genitals in a discernably turgid state.
- 9.24(4) EXEMPTIONS. The provisions of this section do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

9.24(5) PENALTIES. Any person, partnership, or corporation who violates any of the provisions of this section shall be subject to a forfeiture of not less than \$250, and not more than \$500 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under §125.12, Wis. Stats.

9.24(6) SEVERABILITY. If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

9.24(7) EFFECTIVE DATE. This section shall take effect upon passage and publication as required by law.

9.25 AUDLT-ORIENTED ESTABLISHMENTS. (Renum. Fr. Ord. 212, 1994) (1) DEFINITIONS. For the purpose of this section the following words and phrases shall mean: (a) “Adult oriented establishment” shall include, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments or adult cabaret, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained or a profit, direct or indirect.

9.25(1)(b) “Adult bookstores” means an establishment having as its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals which distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specific sexual activities” or “specified anatomical areas” as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, including adult oriented films, movies or live-performances, for observation by patrons therein.

9.25(1)(c) “Adult motion picture theater” means an enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to “specified sexual activities” or specified anatomical areas” as defined in par. (j), for observation by patrons therein.

9.25(1)(d) “Adult mini-motion picture theater” means an enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or specified anatomical areas” as defined in par. (j), for observation by patrons therein.

9.25(1)(e) “Adult cabaret” means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.

9.25(1)(f) “Board” means the Village Board for the Village of Lomira, Wisconsin.

9.25(1)(g) “Adult entertainment” means any exhibition of any motion pictures, live performance, display or dance of any type which has as its dominant theme, or is distinguished or characterized by an emphasis on any actual or simulated “specified

sexual activities,” or “specified anatomical areas” as defined below, or the removal of articles of clothing or appearing partially or totally nude.

9.25(1)(h) “Operators” means any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.

9.25(1)(i) “Specified sexual activities” means simulated or actual: 1. Showing of human genitals in a state of sexual stimulation or arousal:

9.25(1)(i)2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia; sado-masochistic abuse, fellatio or cunnilingus;

9.25(1)(i)3. Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

9.25(1)(j) “Specified anatomical areas” means: 1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola;

9.25(1)(j)2. Human male genitals in a discernible turgid state, even if opaquely covered.

9.25(2) LICENSE. (a) License Required. Except as provided in subd. 3, from and after the effective date of the ordinance establishing this section, no adult-oriented establishment shall be operated or maintained in the Village of Lomira without first obtaining a license to operate issued by the Village of Lomira.

9.25(2)(a)1. A license may be issued only for 1 adult oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than 1 adult oriented establishment must have a license for each.

9.25(2)(a)2. No license or interest in a license may be transferred to any person, partnership or corporation.

9.25(2)(a)3. All adult oriented establishments existing at the time of the passage of the ordinance establishing this section shall have submitted an application for a license within 90 days of the passage of said ordinance. If an application was not received within said 90-day period, then such existing adult-oriented establishment shall cease operations.

9.25(2)(b) Application for License. 1. Any person, partnership or corporation desiring to secure a license shall make application to the Village Clerk. The application shall be filed in triplicate with and dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Lomira Police Department and to the applicant.

9.25(2)(b)2. The application for a license shall be upon a form provided by the Village Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers or directors of a corporate applicant and all stockholders holding more than 5% of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

9.25(2)(b)2.a. Name and address, including all aliases.

9.25(2)(b)2.b. Written proof that the individual is at least 18 years of age.

9.25(2)(b)2.c. All residential addresses of the applicant of the past 10 years.

9.25(2)(b)2.d. The applicant's height, weight, color of eyes and hair.

9.25(2)(b)2.e. The business, occupation or employment of the applicant for 10 years immediately preceding the date of application.

9.25(2)(b)2.f. Whether the applicant previously operated in this or any other county, city or state under an adult oriented establishment or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

9.25(2)(b)2.g. All criminal statutes, whether federal or state, or Village ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

9.25(2)(b)2.h. Fingerprints and 2 portrait photographs at least 2 inches by 2 inches of the applicant.

9.25(2)(b)2.i. The address of the adult oriented establishment to be operated by the applicant.

9.25(2)(b)2.j. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than 5% of the stock in said corporation and all officers and directors of the corporation.

9.25(2)(b)3. Within 21 days of receiving an application for a license the Village Clerk/Treasurer shall notify the applicant whether the application is granted or denied.

9.25(2)(b)4. Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter before the Board, as hereinafter provided.

9.25(2)(b)5. Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Clerk/Treasurer.

9.25(2)(c) Standards for Issuance of License. To receive a license to operate an adult oriented establishment an applicant must meet the following standards: 1. If the applicant is an individual:

9.25(2)(c)1.a. The applicant shall be at least 18 years of age.

9.25(2)(c)1.b. The applicant shall not have been convicted of or pleaded nob contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within 5 years immediately preceding the date of the application.

9.25(2)(c)1.c. The applicant shall not have been found to have previously violated this section within 5 years immediately preceding the date of the application.

9.25(2)(c)2. If the applicant is a corporation: a. All officers, directors and stockholders required to be named under subs. (2)(b)2., shall be at least 18 years of age.

9.25(2)(c)2.b. No officers, director or stockholder required to be named under subs. (2)(b)2., shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within 5 years immediately preceding the date of the application;

9.25(2)(c)2.c. No officers, director or stockholder required to be named under subs. (2)(b)2., shall have been found to have previously violated this ordinance within 5 years immediately preceding the date of the application.

9.25(2)(c)3. If the applicant is a partnership, joint venture, or any other type of organization where 2 or more persons have a financial interest: a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.

9.25(2)(c)3.b. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nob contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within 5 years immediately preceding the date of the application.

9.25(2)(c)3.c. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this section within 5 years immediately preceding the date of the application.

9.25(2)(c)4. No license shall be issued unless the Lomira Police Department has investigated the applicant's qualifications to be licensed. The result of the investigation shall be filed in writing with the Village Clerk/Treasurer no later than 14 days after the date of the application.

9.25(2)(d) Fees. A license fee of \$250 shall be submitted with the application for a license. If the application is denied ½ of the fee shall be returned.

9.25(2)(e) Display of License or Permit. The license shall be displayed in a conspicuous public place. In the adult oriented establishment.

9.25(2)(f) Renewal of License or Permit. 1. Every license issued pursuant to the section will terminate at the expiration of the 1 year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Village Clerk/Treasurer. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and shall

be dated by the Village Clerk/Treasurer. A copy of the application for renewal shall be distributed promptly by the Village Clerk/Treasurer to the Lomira Police Department and to the operator. The application for renewal shall be upon a form provided by the Village Clerk/Treasurer and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

9.25(2)(f)2. A license renewal fee of \$250 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100 shall be assessed against the applicant who files for renewal less than 60 days before the license expires. If the application is denied, ½ of the total fees collected shall be returned.

9.25(2)(f)3. If the Lomira Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Clerk.

9.25(2)(g) Revocation of License. 1. The Board shall revoke a license or permit for any of the following reasons: a. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

9.25(2)(g)1.b. The operator or any employee of the operator violates any provisions of the ordinance or any rule or regulation adopted by the Board pursuant to this ordinance; provided however, that in the case of a first offense by an operator where the conduct was solely that of an employee the penalty shall not exceed a suspension of 30 days if the Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

9.25(2)(g)1.c. The operator becomes ineligible to obtain a license or permit.

9.25(2)(g)1.d. Any cost or fee required to be paid by this ordinance is not paid.

9.25(2)(g)1.e. Any intoxicating liquor or fermented malt beverage is served or consumed on the premises of the adult oriented establishment.

9.25(2)(g)2. The Board, before revoking or suspending any license or permit, shall give the operator at least 10 days written notice of the charges against him, and the opportunity for a public hearing before the Board, as hereinafter provided.

9.25(2)(g)3. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

9.25(2)(g)4. Any operator whose license is revoked shall not be eligible to receive a license for 1 year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult oriented establishment for 6 months from the date of revocation of the license.

9.25(3) LOCATION OF ADULT ORIENTED ESTABLISHMENT. No adult-oriented establishment shall be located nearer than 1000 feet from any property occupied by a school, church, daycare, youth center, park or playground in the Village of Lomira.

9.25(4) PHYSICAL LAYOUT OF ADULT ORIENTED ESTABLISHMENT. Any adult oriented establishment having available for customers, patrons or members, any booth,

room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

9.25(4)(a) Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment, and shall be unobstructed by any door, lock or other control-type device.

9.25(4)(b) Construction. Every booth, room or cubicle shall meet the following construction requirements.: 1. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.

9.25(4)(b)2. Have at least one side totally open to the public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

9.25(4)(b)3. All walls shall be solid and without any openings, extended from the floor to height of not less than 6 feet and be light colored, non-absorbent, smooth textured and easily cleanable.

9.25(4)(b)4. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.

9.25(4)(b)5. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of 10-foot candles at all times, as measured from the floor.

9.25(4)(c) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

9.25(5) RESPONSIBILITIES OF THE OPERATOR. (a) The operator shall maintain a register of all employees, showing the name and aliases used by the employees, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of 3 years following termination.

9.25(5)(b) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the Lomira Police Department at all reasonable times.

9.25(5)(c) Every act or omission by an employee constituting a violation of the provisions of this section shall be deemed the act of omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

9.25(5)(d) Any act or omission of any employee constituting a violation of the provisions of this section shall be deemed the act of omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

9.25(5)(e) No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view adult entertainment as defined herein.

9.25(5)(f) The operator shall maintain the premises in a clean and sanitary manner at all times.

9.25(5)(g) The operator shall maintain at least 10-foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided however, at no time shall there be less than 1-foot candle of illumination in said aisles, as measured from the floor.

9.25(5)(h) The operator shall insure compliance of the establishment and its patrons with the provisions of this ordinance.

9.25(6) ADMINISTRATIVE PROCEDURE AND REVIEW. Chapter 227, Wisconsin Statutes, concerning contested cases shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

9.25(7) EXCLUSIONS. All private schools and public schools, as defined in Ch. 115, Wis. Stats., located within the Village of Lomira are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

9.25(8) PENALTIES AND PROSECUTION. (a) Any person, partnership or corporation who is found to have violated this section shall be fined a definite sum not to exceed \$250 and shall result in the revocation of any license.

9.25(8)(b) Each violation of this section shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

9.25(9) SEVERABILITY. If any provision of this ordinance is deemed invalid or unconstitutional by a court competent jurisdiction, each invalidity or unconstitutionality shall not affect the other provisions of same.

9.25(10) ENFORCEMENT. The Village of Lomira Police Department shall have the authority to enter any adult oriented establishment at all reasonable times to inspect the premises and enforce this section.

9.36 OFFENSES AGAINST PUBLIC PEACE. (1) DISORDERLY CONDUCT PROHIBITED. (a) No person within the Village of Lomira shall: 1. In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.

9.36(1)(a)2. Intentionally cause, provoke, or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

9.36(1)(a)3. Make a telephone call with intent to annoy another, whether or not conversation ensues.

9.36(1)(a)4.a. Operate a motor-driven vehicle in a public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed or in any other manner which would annoy or disturb persons in the Village of Lomira or endanger the public peace and safety. Included under the provisions of this section is the operation of motor driven vehicles on any public or private property not intended for the use of such vehicles.

9.36(1)(a)4.b. Compression Dynamic Braking Device. No person shall use motor vehicle brakes within the Village of Lomira limits which are in any way activated or operated by the compression of the engine or any such motor vehicle or any unit or any part thereof.

- i. Definition of Term. Dynamic braking device, commonly referred to as Jacob's Brake or Jake Brake, engine brake or compression brake, deemed a device primarily used on trucks for the conversion of engine from the internal combustion engine to an air compressor for the purposes of braking without the use of brakes.
- ii. Any person violating the provisions of this section shall be deemed to have committed a traffic offense and a penalty shall be imposed upon that individual to not exceed a basic bond amount of more than \$500. The street superintendent for the Village of Lomira shall post at every entrance to the Village of Lomira appropriate signage to notify individuals entering the Village of Lomira of this section. This section shall only allow such compression braking in emergency situations to protect the loss of life and/or property.

9.36(1)(a)5. Use, possess, control or consume fermented malt beverages or intoxicating liquor upon the public streets, alleys, sidewalks, street crossings, public parking lots or upon premises held out to the public for use of their motor vehicles in the Village, except for municipally approved community functions or events where authorized by specific resolution of the Village Board.

9.36(1)(a)5m. All purchases of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed in the licensed premises where served and shall not be removed therefrom to any public street, alley, sidewalk, street crossings, bridges, public parking lots or premises held out to the public for use of their motor vehicles in the Village. (Amended Ord. 161, 1983)

9.36(1)(b) Any person who shall violate this subsection shall forfeit not more than \$200 and the cost of prosecution and in default of payment of such forfeiture and cost of prosecution shall be imprisoned in the County Jail until the forfeiture and costs of prosecution are paid, but not more than 5 days. (recr. and m.fr. §9.40.010 [partial])

9.36(2) LOUD AND UNNECESSARY NOISE PROHIBITED. No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence. Any person who shall violate any provision of this subsection shall be subject to the penalty provisions as provided for in Ch. 25, of this Code.

9.36(2)(a)1. Declaration of findings and policy.

9.36(2)(a)1.a. Excessive sound is a serious hazard to the public health and welfare, safety and the quality of life. A substantial body of science and technology exists by which excessive sound may be substantially abated, and the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life.

9.36(2)(a)1.b. It is declared to be the policy of the city to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

9.36(2)(a)2. Scope of article. This article shall apply to the control of all noise within the city.

9.36(2)(a)3. Definitions and terminology.

9.36(2)(a)3.a. Terminology. All terminology used in this article, not defined in subsection (b) of this section, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

9.36(2)(a)3.b. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

ANSI means American National Standards Institute or its successor bodies.

- i. A bank level means the total sound level of all sound as measured with a sound level meter using the A-weighted network. The unit of measurement is the dB(A).
- ii. Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- iii. Construction means any safe preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.
- iv. Cycle means a complete sequence of values of a periodic quantity that occur during a period.
- v. Day or daytime means the hours between 7:00 A.M. and 10:00 P.M.
- vi. Decibel means a standard unit for measuring sound pressure levels that is equal to one-tenth of a bel and is a unit of level when the base of the logarithm is the tenth root of ten, and the quantities concerned are proportional to power, abbreviated "dB."
- vii. Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
- viii. Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

- ix. Fluctuating sound means a sound whose sound pressure level varies significantly but does not equal the ambient environmental level more than once during the period of observation.
- x. Frequency means the reciprocal of the primitive period of a function periodic in time. The unit is the cycle per unit time and must be specified; typically, this unit will be Hertz (Hz) i.e. cycles per second.
- xi. Impulsive sound means an impulsive sound is characterized by brief excursions of sound pressure (acoustic impulses) which significantly exceed the ambient environmental sound pressure. The duration of a single impulse is usually less than one second.
- xii. Intermittent sound means an intermittent sound is a sound which sound pressure level equals the ambient environmental level two or more times during the period of observations. The period of time during which the level of the sound remains at an essentially constant value different from that of the ambient is on the order of one second or more.
- xiii. Lot-line means an imaginary line along the ground surface, and its vertical extension which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.
- xiv. Microbar means a unit of pressure commonly used in acoustics that is equal to one dyne per square centimeter.
- xv. Nonsteady sound means a sound whose level shifts significantly during the period of observation.
- xvi. Period means the smallest increment of time for which a function repeats itself in a periodic quantity.
- xvii. Period of observation means the period of observation is the time interval during which acoustical data are obtained. The term “period of observation” is determined by the characteristics of the sound being measured and should also be at least ten times as long as the response time of the instrumentation. The greater the variance in indicated sound level, the longer must be the observation time for a given expected accuracy of the measurement.
- xviii. Periodic quantity means an oscillating quantity, the values of which recur for equal increments of time.
- xix. Person means any person, person’s firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.
- xx. Public right-of-way means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.
- xxi. Pure tone means a sound having a single frequency.
- xxii. Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- xxiii. Sound analyzer means a device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.
- xxiv. Sound level meter means an instrument including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of noise and sound levels in a specified manner.
- xxv. Sound pressure level means the sound pressure level, in decibels of sound, is 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.
- xxvi. Spectrum means a spectrum is a function of time and is a description of its resolution into components, each of different frequency and usually of different

amplitude and phase and is also used to signify a continuous range of components each of different frequency and usually of different amplitude and phase. A spectrum is used to signify a continuous range of components usually wide in extent within which waves have some specified characteristics such as audio-frequency spectrum and is also applied to functions of variables other than time.

xxvii. Steady sound means a sound whose level remains essentially constant (i.e. fluctuations are negligibly small) during the period of observation.

9.36(2)(a)4. Enforcement of article provisions.

It shall be the duty of the health department, inspection department and the police department to enforce the provisions of this article.

9.36(2)(a)5. Excessive noise declared a nuisance.

Excessive noise as prohibited in this article is hereby declared to be a public nuisance and may be subject to summary abatement procedures as described in section 78-3 of this Code. Such abatement may be in addition to administrative proceedings, fines and penalties as provided in this article. It shall be the duty of the health department, inspection department or the police department, upon complaint of a nuisance, to determine if excessive noise exists as defined in this section and to take the appropriate action as specified therein. Conditions of excessive noise which are specifically exempted or for which a variance permit has been issued in conformity with provisions of this section, shall be exempt from the application of the provisions of this section.

9.36(2)(a)6. Exemptions

The following activities are exempted from regulation under section 9.36(2)

9.36(2)(a)6.a Construction sites; public utility projects; public works.

- i. Construction sites; public utility projects. The criteria, as set forth in section 9.36(2) shall not apply to construction sites and public utilities projects during the daytime hours from Monday through Saturday, inclusive; provided, however, that noise production shall be minimized through proper equipment operation, maintenance or modifications thereto. Stationary equipment on construction projects lasting more than ten days within residential districts shall be shielded or located so as not to cause unnecessary noise.
- ii. Variance for certain construction sites and utility projects. A construction site or utility project may seek a variance exempting such site/project from the noise limitations set forth in section 9.36(2) if public convenience so requires or if the site/project operations by its nature, extends beyond the time and day limitations of subsection 9.36(2)(b)1.a. according to the following process:
 - a. Written application shall be made to the director of public works, or designee, at least ten calendar days prior to site/project start; and
 - b. The director of public works shall, in consultation with the health director, review the site/project location and the probably noise impact on residential areas; and
 - c. Applicant shall ensure noise production is minimized through proper equipment operation, maintenance or modifications thereto as required by the director of public works or health director; and
 - d. The director of public works and/or health director shall place such terms and conditions upon any variance approval as will protect the health and welfare

- of the public. Failure to abide by such terms and conditions shall result in revocation of the variance; and
- e. Approval and denial of any application shall be in writing; and
 - f. If the variance is granted, applicant shall notify all property owners as identified by the health director prior to commencement of the site/project; and
 - g. Application denials may be appealed to the board of public works within ten days of the date of denial.
- iii. Public works operation. City public works maintenance and operations projects shall be exempt from the criteria set forth in section 9.36(2); provided, however, that noise production shall be minimized through proper equipment operation and maintenance.

9.36(2)(a)6.b. Emergency operations. Emergency short term operations which are necessary to protect the health and welfare of the citizens, such as emergency utility and street repair, fallen tree removal, snow removal or emergency fuel oil delivery, shall be exempt from the criteria as set forth in section 9.36(2), provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from such operations.

9.36(2)(a)6.c. Noises required by law. The provisions of section 9.36(2) shall not apply to any noise required specifically by law for the protection, health, welfare or safety of people or property.

9.36(2)(a)6.d. Lawn mowers; garden tools; powered equipment. Powered equipment such as lawn mowers, small lawn and garden tools, riding tractors and snow removal equipment which is necessary for the maintenance of property, is kept in good repair and maintenance, and which equipment, when new, would not comply with the standards set forth in this article, shall be exempted from the provisions of section 9.36(2). No person shall operate such equipment, with the exception of snow removal equipment, during the hours of 11:00 P.M. through 7:00 A.M. inclusive.

9.36(2)(a)6.e. Other outdoor events. Outdoor civic picnics, dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

9.36(2)(a)6.f. Airplanes. Aircraft operations which are controlled specifically by federal law and enforcement shall be exempted from the provisions of this article.

9.36(2)(a)6.g. Bells and chimes. Bells, chimes and similar devices which signal the time of day and operate during the daytime hours for a duration of no longer than 15 minutes in any given one-hour period shall be exempt from the noise limitations.

9.36(2)(a)6.h. Trains.

9.36(2)(a)7. Variances for time to comply.

Time to comply.

9.36(2)(a)7.a. It is recognized that it may be technically or economically feasible for certain commercial or industrial sources of sound to be modified in such a manner as to comply in a timely manner with the standards set forth in this article. Therefore, the

board of health may issue a variance permit on existing or potential commercial or industrial sources of sound which produce excessive noise.

9.36(2)(a)7.b. At least 60 days prior to commencement of sound producing operations, or upon a complaint which cannot be resolved to the satisfaction of health officer, the owner, or authorized agent of any commercial or industrial source or potential source of sound may apply to the board of health for a variance in time to comply with the noise level requirements of this article. The board of health shall have the authority, consistent with this section, to grant a variance, not to exceed 18 months from the effective date of such variance permit.

9.36(2)(a)7.c. Any person seeking a variance as allowed herein shall file an application with the health officer. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this article would constitute an unreasonable hardship on the applicant, on the community, or on other persons. A public hearing shall be held, preceded by a Class 1 notice of such hearing. Notice of the public hearing on the variance request shall be given to all property owners within a 300-foot radius of the property for which the variance is sought. At the public hearing, any party may appear in person or by agent or attorney.

9.36(2)(a)7.d. In determining whether to grant or deny the application, the board of health shall balance the hardship to the applicant, the community, and other persons of not granting the variance against the adverse impact on health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance. Applicants for variances and persons contesting the variances may be required to submit any information the board of health may reasonably require. In granting or denying an application, the board of health shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.

9.36(2)(a)7.e. Variances shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this article for which the variance was granted.

9.36(2)(a)7.f. Application for extension of the variance or for modification of other substantial conditions shall be treated like applications for initial variances under this subsection, except that the board of health must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

9.36(2)(a)8. Lot line noise regulation.

9.36(2)(a)8.a. The following noise limitations are established for any premises, measured at the lot line:

- i. Maximum levels within zones. No person shall operate or cause to be operated on private or public property any source of sound in such a manner as to create a sound level which exceeds the limits set for the zone categories in tables I and II.

Table 1

Maximum Permissible Sound Pressure-7:00 A.M. – 11:00 P.M.

	Residential	Commercial	Industrial
A-scale Level	57 dB(A)	63 dB(A)	72 dB(A)
(Levels in Decibels re .0002 Microbars)			

Table II

Maximum Permissible Sound Pressure-11:00 P.M. – 7:00 A.M.

	Residential	Commercial	Industrial
A-scale Level	52 dB(A)	58 dB(A)	67 dB(A)
(Levels in Decibels re .0002 Microbars)			

- ii. Maximum levels between zones. No person shall operate or cause to be operated on private or public property any source of sound from an industrial zone into a residential zone or commercial zone, or from a commercial zone into a residential zone which exceeds the limits set for the zone categories in tables III and IV.

Table III

Maximum Permissible Sound Pressure-7:00 A.M. – 11:00 P.M.

	Industrial into Commercial	Industrial into Residential	Commercial into Residential
A-scale Level	66 dB(A)	64 dB(A)	61 dB(A)
(Levels in Decibels re .0002 Microbars)			

Table IV

Maximum Permissible Sound Pressure-11:00 P.M. – 7:00 A.M.

	Industrial into Commercial	Industrial into Residential	Commercial into Residential
A-scale Level	61 dB(A)	60 dB(A)	55 dB(A)

9.36(2)(a)8.b. Definitions of zone categories. The following zones are included in the zone categories:

- i. Residential: R-1, R-2, R-3, and R-4 zoning classifications;
- ii. Commercial: C-1, C-2, BP

9.36(2)(a)8.c. Industrial: 1, Ag, EA, CO, FP zoning classifications.

Regulation will be according to the underlying zones. Conservancy zones that are not publicly owned shall be regulated according to the adjacent zone. If the neighboring zones are different, they shall be extended to the center of the conservancy for the purposes of this article.

- i. Measurements. The measurement shall be made at or beyond the property line of the property on which such noise is generated or at or within the property line of the property on which such noise is perceived, as appropriate. Measurement shall be done at a minimum height of four feet above the ground. The measurement of sound shall be made either with a sound level meter that meets or exceeds the ANSI requirements of the American Standard Specification for sound level meters, Type I or Type II (ANSI S1.4-1971) or with an octave band analyzer that meets or exceeds the requirements of (ANSI s1.6-1960) or any subsequent nationally adopted standards superseding the above standards. In both cases, the instruments should be maintained in calibration and good working order. When a sound level meter is used, it shall be set to the A-weighted scale and in the FAST response mode. A windscreen shall be mounted on the microphone and the noise limitations shall be the A-scale levels set forth above. An octave band analyzer may be employed when there is a concentration of sound energy within a limited number of bands, but its use shall not be restricted to such situations.
- ii. Residential air conditioners. Noise emitted by residential air conditioners shall be judged by the criteria set forth above.
- iii. Ambient noise is a factor. The subject noise must exceed the ambient noise by five dB or more, in any octave band, to be declared excessive.
- iv. Exemptions. The provisions of this section shall not apply to:
 - a. Activities covered by the variance and exemption sections of this article;
 - b. The activities expressly covered under other provisions of this chapter;
 - c. Nonstationary farming equipment.

9.36(2)(a)9. Vibrations

The use of any property or portion of such property zoned in any industrial district zoning classification which causes earth-shaking vibrations such as are created by uses including, but not limited to, drop forges and hydraulic surges, shall be controlled in such a manner as to prevent transmission beyond the lot line of earth-shaking vibrations perceptible without the aid of instruments.

9.36(2)(a)10. Noises created by human behavior.

9.36(2)(a)10.a. No person may create, assist in creating, permit, continue or permit the continuance of any unreasonable loud, disturbing, or unnecessary noise as may tend to annoy, inconvenience, disturb or cause discomfort to any person, or to the comfortable enjoyment of property.

9.36(2)(a)10.b. No person occupying or having charge of any building or premises shall cause suffer or allow any loud, excessive or unusual noise in the operation or use of any sound making or reproducing device so that such loud, excessive or unusual noise disturbs the comfort, quiet or repose of persons therein or in the vicinity.

9.36(2)(a)10.c. No person shall use or operate in any public street or place, or in front of or outside of any building, place or premises, or in or through any window, doorway or opening of any building adjacent to any public street or place any device for the amplification of the human voice or sound or noise or other sound making or sound reproducing device. No person shall make for the purpose of advertising any immoderate or excessive use of the voice of any bell, gong, horn, instrument, article or device.

9.36(2)(a)10.d. As used in this section, the word “person” shall extend and be applied to the lessor or landlord of any land, building or premises, his or her agent, the lessee, the occupant or person in charge of such building or premises, as well as the individuals.

9.36(2)(a)10.e. The landlord or lessor shall be given notice on at least two occasions of violations of this section by the tenant(s) or occupant(s) and, upon the second and subsequent violation by the tenant, occupant, or group of tenants as the same dwelling unit within a one-year period, the landlord or lessor may be cited for permitting or allowing a nuisance, defined herein as allowing continuous loud noises, music or parties, which tend to disrupt the common welfare of a neighborhood or community. The landlord or lessor shall be notified of all citations issued to their tenants or occupants for noise violations and shall only be subject to a penalty if such tenant(s) or occupant(s) has been convicted of violations of this section occurring within a one-year period nor shall the landlord or lessor be subject to a penalty if the landlord or lessor shows that all reasonable means have been taken and a sincere effort made to prevent continuous noise violations by their tenants or occupants.

9.36(2)(a)11. Neighborhood quiet zones.

9.36(2)(a)11.a. It shall be unlawful for any person to create, assist in creating, permit, or continue to permit the continuation of any unreasonably loud, disturbing or unnecessary noise emanating from within residential neighborhood quiet zones, as established by the Village Board, between the hours of 11:00 P.M. and 7:00 A.M., such as produces annoyance, inconvenience, discomfort, or hurt to any person, or to the enjoyment of property or comfort of any person, or affects the safety, health or morals of the public.

9.36(2)(a)11.b. As used in this subsection, the phrase “neighborhood quiet zones” shall be defined as a residential area wherein not less than 51 percent of the property owners in a nonbusiness zoned area have successfully petitioned the common council to request such status. In arriving at the requisite percentage, each parcel of property or tax parcel shall be counted as one. The majority of record title holders to each property must sign the petition in order to constitute one parcel toward the requisite number of residents. Posting of such zones shall be in accordance with the procedures as established by the common council. The area shall not be less than one block in length on both sides of the street provided, however, smaller residential areas may be included within an existing contiguous quiet zone. A separate petition shall be filed for each block, or portion

thereof, or, in the case of a lawfully established neighborhood association, the boundaries of such association. When the petition is filed with the city Clerk-Treasurer, it shall contain the requisite percentage of owners and no signatures can be added or subtracted after it is filed with the city Clerk-Treasurer. All signatures on the petition shall be obtained within three months from the date of the first signature or such petition shall be void. The common council shall not grant such status to any area less than that as prescribed above. Such status shall remain in effect for a period of at least one year, after which time, utilizing the same guidelines as for the establishment of such status, it may be repealed by petition of the residents or owners subject to approval of the common council. Notice of public hearings to establish or repeal any residential neighborhood quiet zone shall be given to all record owners within the zone. A fee as determined by resolution of the common council shall accompany each petition.

9.36(2)(a)12. Penalty for violation of article.

Anyone violating any of the provisions of this article, unless otherwise provided, shall, upon conviction, forfeit such amount as determined by the common council by resolution. Each violation and each day a violation continues or occurs shall constitute a separate offense. This section shall not preclude the city from maintaining any appropriate action to prevent or to remove a violation of any of such sections.

9.36(2)(b) UNNECESSARY NOISES FROM VEHICLES. The use of any automobile, bus or vehicle so out of repair, so loaded or so operated in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is declared to be in violation of this article. (This also includes engine accelerating and revving.)

9.36(2)(b)1. Engine Mufflers. The discharge into the open air of the exhaust of any steam, stationary internal-combustion, motor vehicle, motorboat, hobby boat, hobby car or hobby airplane engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is declared to be in violation of this article.

9.36(2)(b)2. Quite Areas. The creation of any effective noise adjacent to any school, institution of learning, church or court while such is in session or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof, is declared to be in violation of this article.

9.36(3) BATTERY. No person shall intentionally cause bodily harm to a Village law enforcement officer or firefighter as those terms are defined in §§102.47(8)(b) and (c), Wis. Stats., acting in an official capacity and such person knows or has reason to know that the victim is a law enforcement officer or firefighter by an act done without the consent of the person so injured. (cr. through recodification, 1999)

9.36(4) DRINKING ON PUBLIC ROADS. No person shall drink from, open a container of, or have in his possession an open container of, fermented malt beverage or intoxicating liquor upon a public parking lot, highway, street, roadway, alley, street crossing, sidewalk, or upon premises held out to the public for use of their motor vehicles within the Village. (cr. through recodification, 1999)

9.36(5) OPEN CONTAINERS. (a) Whoever has in their possession an open container of fermented malt beverage or intoxicating liquor while upon a public parking lot, highway, street, roadway, alley, street crossing, sidewalk, or upon premises held out to the public for use of their motor vehicles within the Village or while in Sterr Park may be fined not

more than: \$50 for the first offense; \$100 for the 2nd offense; and, \$250 for the 3rd and subsequent offense(s).

9.36(5)(b) The foregoing subsection shall not apply to those groups making application for a special permit for parties, community functions or social events to be held in the park(s) or where authorized after receiving special permission from the Village Board in and by specific resolution. (recr. and rn.fr. §9.40.010 [partial], and through recodification, 1999)

9.36(6) CURFEW. (a) Prohibitions. No child under the age of 16 years shall remain, and no parent or legal guardian shall knowingly permit his child or ward to so remain, upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places in the Village between the hours of 10 P.M. and 6 A.M. the next day. Further, no child between the age of 16 years to their 18th birthday shall be upon any street, alley or other public place in the Village between the hours of 11:00 P.M. and 6:00 A.M. (recer. fr. ord. 204, 1993 as am. by Ord.215, 1994)

9.36(6)(b) Exceptions. The following provisions shall constitute valid exceptions to the operation of the Village curfew: 1. At any time the child is accompanied by his or her parent, guardian, or other adult person having the care and custody of the child.

9.36(6)(b)2. At any time, in the event of an emergency which would justify the reasonableness of the child's presence.

9.36(6)(b)3. At any time when the child is pursuing the duties of legitimate employment.

9.36(6)(b)4. Until the hour of 12:30 A.M. if the child is on an errand as directed by a parent or legal guardian.

9.36(6)(b)5. If the child is coming home from a public meeting or place of public entertainment such as a movie, play, school, church, or sporting event. This exception shall apply for ½ hour after the completion of such an event. If the event is not commercial in nature or does not have a fixed publicly known time at which it will end, the sponsoring organization shall register the event with the Police Department at least 24 hours in advance informing the Department of the time such event is scheduled to be, the place at which the event will be held, the time at which the event shall end, and the name of the sponsoring organization.

9.36(6)(b)6. If the child is coming directly home from a private home which has been approved by the child's parent or legal guardian.

9.36(6)(b)7. Until the hour of 12:30 A.M. if the child is on the property of or the sidewalk directly adjacent to the building in which the child resides or the building immediately adjacent thereto. (ren. And recr. fr. §9.41.020 and ord. 204 as amended by Ord. 207, 1993)

9.36(6)(c) Taking a Child Into Custody. A child believed to be violating this subsection shall be taken to the Police Department for proper identification. Every law enforcement officer, while on duty, is hereby authorized to take into custody any child violating the provisions of par (a).

9.36(6)(c)1. Children taken into custody shall be released from custody as soon as is reasonably possible.

9.36(6)(c)2. An officer taking a child into custody shall make every effort to immediately release the child to the child's parent or legal guardian, if the parent or legal guardian is unavailable, unwilling or unable to provide supervision, that officer may release the child to a responsible adult, and verbally counsel or warn, as may be appropriate; or, in the case of a runaway, child, may release the child to a home authorized under §48.277, Wis. Stats.

9.36(6)(d) Penalty. Any person who shall violate this subsection shall, upon conviction, be subject to a forfeit of \$25 for the first and second offenses and subsequent offenses shall be referred to the Children's Court. The enforcement of this subsection shall be at the discretion of the arresting officer. (renum. fr. §§9.42.030 and 9.42.040)

9.36(7) **REGUALTION OF UNDERAGE PERSONS AND INTOXICATING BEVERAGES.** In addition to any other provisions of this Code, the statutory provisions contained in §125.07(a)(b), Wis. Stats., describing and defining regulations with respect to the use, consumption, possession and purchase of alcohol beverages by underage persons for which the penalty is a forfeiture, including penalties to be imposed, and any future amendments thereto, are hereby adopted and by reference are made a part of this subsection as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this subsection. (recr. fr. Ord. 197, 1990; and, through recodification,1999)

9.36(8) **POSSESSION OF MARIJUANA.** (a) Prohibition. It is unlawful for any person to possess any material, compound, mixture or preparation which contains any quantity of marijuana, or its salts, isomers or salts of isomers, unless the substance was obtained directly from, or pursuant to a valid prescription or order, of, a practitioner, within the meaning of §961.34, Wis. Stats., while acting in the course of his professional practice, of except as otherwise authorized by Ch. 961, Wis. Stats.

9.36(8)(b) Penalty. The penalty for violation of this subsection shall be a forfeiture of not less than \$100 nor more than \$500.

9.37 **POSSESSION OF CONTROLLED SUBSTANCES.** (1) **POSSESSION.** No person may possess or attempt to possess a controlled substance or a controlled substance analog unless the person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by Ch. 961, Wis. Stats., to possess the substance or the analog.

9.37(2) **POSSESSION OF MARIJUANA (THC).** (a) No person may possess or attempt to possess 25 grams or less of marijuana (Tetrahydrocannabinols), as defined in §961.01 (14)(t), Wis. Stats., unless it was obtained directly from or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Ch. 961, Wis. Stats. Any person who violates this subsection may be fined not less than \$25 and not more than \$500.

9.37(2)(b) In this subsection "practitioner" means: 1. A physician, advanced practice nurse, dentist, veterinarian, podiatrist, optometrist, scientific investigator or, subject to §448.21(3), Wis. Stats., a physician assistant, or other person licensed, registered, certified or otherwise permitted to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

9.37(2)(b)2. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

9.37(2)(c) In this subsection “controlled substance analog” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance included in schedule I or II, Ch 961, Wis. Stats., and: 1. Which has a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II, Ch. 961, Wis. Stats.; or

9.37(2)(c)2. With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II, Ch. 961, Wis. Stats.

9.37(2)(d) This subsection does not apply to any person who is charged with possession of more than 25 grams of marijuana (THC), or who is in charge with possession of any amount of marijuana following conviction for possession of any amount of marijuana (THC), in the State of Wisconsin. (recr. fr. Ord. 229, 1997 and par (b) fr. §961.01(a), Wis. Stats., as amended eff. 2-1-99 by 1997 Wis. Act 67)

9.38

POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA PROHIBITED. (1) STATE STATUTES ADOPTED. The provisions of §§961.571, 961.572, 961.573(2), 961.574(2), 961.575(2) and 961.576, Wis. Stats., describing and defining regulations with respect to possession, manufacture and delivery of drug paraphernalia for which the penalty is a forfeiture, including penalties to be imposed and procedures for prosecution, and any future amendments thereto, are hereby adopted and by reference are made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter, therein are adopted by reference as if fully set forth herein.

9.38(2)

DEFINITION. In this section “drug paraphernalia” means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of this chapter. “Drug paraphernalia” includes, but is not limited to, any of the following:

938(2)(a) Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.

9.38(2)(b) Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.

9.38(2)(c) Isomerization devices used, designed for use or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.

9.38(2)(d) Testing equipment used, designed for use or primarily intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances or controlled substance analogs.

9.38(2)(e) Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.

9.38(2)(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use or primarily intended for use in cutting controlled substances or controlled substance analogs.

9.38(2)(g) Separation gins and sifters used, designed for use or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

9.38(2)(h) Blenders, bowls, containers, spoons and mixing devices used, designed for use or primarily intended for use in compounding controlled substances or controlled substance analogs.

9.38(2)(i) Capsules, balloons, envelopes and other containers used, designed for use or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.

9.38(2)(j) Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

9.38(2)(k) Objects used, designed for use or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

9.38(2)(k)1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

9.38(2)(k)2. Water pipes

9.38(2)(k)3. Carburetion tubes and devices.

9.38(2)(k)4. Smoking and carburetion masks.

9.38(2)(k)5. Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

9.38(2)(k)6. Miniature cocaine spoons and cocaine vials.

9.38(2)(k)7. Chamber pipes.

9.38(2)(k)8. Carburetor pipes.

9.38(2)(k)9. Electric pipes.

9.38(2)(k)10. Air-driven pipes.

9.38(2)(k)11. Chilams.

9.38(2)(k)12. Bongs.

9.38(2)(k)13. Ice pipes or chillers.

9.38(2)(L) “Drug paraphernalia” excludes: 1. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.

9.38(2)(L)2. Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products.

9.38(3) DETERMINATION OF DRUG PARAPHERNALIA. (a) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

9.38(3)(a)1. Statements by an owner or by anyone in control of the object concerning its use.

9.38(3)(a)2. The proximity of the object, in time and space, to a direct violation of this section.

9.38(3)(a)3. The proximity of the object to controlled substances or controlled substance analogs.

9.38(3)(a)4. The existence of any residue of controlled substances or controlled substance analogs on the object.

9.38(3)(a)5. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is designed for use or primarily intended for use as drug paraphernalia.

9.38(3)(a)6. Instructions, oral or written, provided with the object concerning its use.

9.38(3)(a)7. Descriptive materials accompanying the object that explain or depict its use.

9.38(3)(a)8. Local advertising concerning its use.

9.38(3)(a)9. The manner in which the object is displayed for sale.

9.38(3)(a)10. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer or tobacco products.

9.38(3)(a)11. The existence and scope of legitimate uses for the object in the community.

9.38(3)(a)12. Expert testimony concerning its use.

9.38(3)(b) In determining under this subchapter whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.

9.38(3)(c) In determining under this subchapter whether an item is primarily intended for a particular use, a court or other authority shall consider the subjective intent of the defendant.

- 9.38(4) POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA.
- (a) Possession of drug paraphernalia. 1. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this subdivision may be fined not more than \$500 or imprisoned for not more than 30 days or both.
- 9.38(4)(a)2. Any person who violates subd. 1 who is under 17 years of age is subject to a disposition under §938.344(2e), Wis. Stats.
- 9.38(4)(b) Manufacture or Delivery of Drug Paraphernalia. 1. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this subdivision may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.
- 9.38(4)(b)2. Any person who violates subd. 1 who is under 17 years of age is subject to a disposition under §938.344(2e), Wis. Stats.
- 9.38(4)(c) Delivery of Drug Paraphernalia By a Minor to a Minor. 1. Any person under 17 years of age or over who violates §9.38(4)(b)1 by delivering drug paraphernalia to a person 17 years of age or under who is at least 3 years younger than the violator may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.
- 9.38(4)(c)2. Any person who violates this section who is under 17 years of age is subject to a disposition under §938.344(2e), Wis. Stats. (recr. fr. Ord. 230, 1997)
- 9.42 TRESPASSING ON VILLAGE PROPERTY. (1) PROHIBITED. Trespassing is prohibited on posted Village property. (renum. Fr. §9.42.010 Ord. 135 (part), 1979)
- 9.42(2) SIGNS TO BE POSTED. It is unlawful for any unauthorized person to enter upon, by foot or by vehicle, any property owned by the Village and which has been posted with appropriate signs indicating that such entry is prohibited by Village ordinance. (renum. Fr. §9.42.020 Ord. 135 (part), 1979)
- 9.42(3) AUTHORITY TO DESIGNATE AREAS. The Village Board is authorized to designate by resolution or ordinance which areas are to be posted. Such designations shall be kept on file in the office of the Village Clerk/Treasurer. (recr. and renum. Fr. §9.42.030 Ord. 135 (part), 1979)
- 9.42(4) VIOLATION AND PENALTY. The penalty for violation of the provisions of this section is set forth in Ch. 25 of this Code. (renum. Fr. §9.42.040 Ord. 135 (part), 1979)
- 9.70 TRUANCY. (1) AUTHORITY. Section §118.163(2), Wis. Stats., authorizes the Village of Lomira to enact a municipal ordinance prohibiting a person under 18 years of age from being a habitual truant. (recr. fr. §9.70.010 during recodification, 1999)
- 9.70(2) DEFINITIONS. For purposes of this ordinance: (a) “Habitual Truant” has the meaning given in §118.16(1)(a), Wis. Stats.

9.70(2)(b) “Acceptable Excuse” has the meaning as defined in §§118.15 and 118.16(4) Wis. Stats. (recr. fr. Ord. 219, §1996)

9.70(3) **TRUANCY PROHIBITED.** The Village of Lomira by this ordinance does prohibit any student within its jurisdiction from being a habitual truant as that term is defined in this Section. The Lomira Police Department is authorized to issue a municipal citation to any such student found within its jurisdiction who is determined to be habitually truant under the terms of this Section.

9.70(3)(a) Except as provided in §118.16(5m), Wis. Stats., prior to the issue of a citation hereunder, or against the child’s parent or guardian under §118.15 Wis. Stats., for failure to cause the child to attend school regularly, the law enforcement personnel shall determine whether the school officials have, within the school year during which the truancy occurred, done all of the following:

9.70(3)(a)1. Met with the child’s parent or guardian to discuss the child’s truancy or attempted to meet with the child’s parent or guardian and received no response or were refused.

9.70(3)(a)2. Provided an opportunity for educational counseling to the child to determine whether a change in the child’s curriculum would resolve the child’s truancy and have considered curriculum modifications under §118.15(1)(d), Wis. Stats.

9.70(3)(a)3. Evaluated the child to determine whether learning problems may be a cause of the child’s truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

9.70(3)(a)4. Conducted an evaluation to determine whether social problems may be a cause of the child’s truancy and, if so, have taken appropriate action or made appropriate referrals.

9.70(3)(b) Subp. (a) does not apply if a meeting under §118.16(2)(cg)3, Wis. Stats., is not held within 10 school days after the date that the notice under sub. §118.16(2)(cg), Wis. Stats., is sent. Subp. (b), (c) and (d) do not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child’s absences from school.

9.70(4) **DISPOSITION.** In accordance with §118.163(2), Wis. Stats., upon finding a child habitually truant, the following dispositions are available to the Court: (a) Suspension of the person’s operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

9.70(4)(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in §938.34(5g), Wis. Stats. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.

9.70(4)(c) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required

to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

9.70(4)(d) An order for the person to attend an educational program as described in §938.34(7d), Wis. Stats. (recr. fr. Ord. 218, §9.70.040)

9.70(5) CONTRIBUTING TO TRUANCY. (a) Except as provided in subp. (b), any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under §118.16(1)(c) Wis. Stats., of a person 17 years of age or under is guilty of a Class C misdemeanor.

9.70(5)(b) Subp. (a) does not apply to a person who has under his or her control a child who has been sanctioned under §49.26(1)(h), Wis. Stats.

9.70(5)(c) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant. (recr. fr. Ord. 218, §9.70.050, 1996)

9.80 DISCHARGING. (1) FIREARMS PROHIBITED. (a) No person, except a sheriff, constable, police officer or their deputies shall fire or discharge any cannon, firearm or rifle within the Village. This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board.

9.80(1)(b) This subsection prohibits hunting within the Village.

9.80(2) MISSILES PROHIBITED. No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by and or by any other means within the Village, except that contests or practice may be held under the direct supervision of a parent, guardian or some other responsible person. (Amended during 1978 codification; Ord. 119, §2, 1975; and renum. Fr. §9.80.020)

9.80(3) FIREWORKS PROHIBITED. Refer to Chapter 19.70

AN ORDINANCE TO CREATE SECTION 9.81 OF THE VILLAGE CODE OF ORDINANCES RELATED TO SEXUAL OFFENDER RESIDENCY RESTRICTION

WHEREAS, repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety; and

WHEREAS, sexual offenders are extremely likely to use physical violence and to repeat their offenses; and

WHEREAS, most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes; and

WHEREAS, this makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant; and

WHEREAS, the Village Board has considered the required needs of sex offenders in seeking a successful rehabilitation and integration back into society, against the safety and protection needs of the residents of the Village; and

WHEREAS, the Village Board determines that prohibiting sexual offenders from residing near to places where children congregate enhances public safety and rehabilitation by preventing contact between offenders and potential victims, thereby reducing the risk of re-offense; and

WHEREAS, the Village Board determines that creating a density requirement that prohibits sexual offenders from living near each other enhances public safety and rehabilitation by preventing sexual offenders from having contact and associating with each other, affirming each other's beliefs and activities and possibly conspiring with each other to commit additional criminal acts; and

WHEREAS, the Village Board further determines that the density requirement enhances public safety and rehabilitation by integrating sexual offenders into diverse neighborhoods that will better promote non-criminal behavior; and

WHEREAS, it is the intent of this ordinance not to impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect and improve the health, safety, and welfare of the citizens of the Village.

9.81 SEXUAL OFFENDER RESIDENCY RESTRICTION. (1) Findings and Intent.

9.81(1)(a) Authority. The Village Board has authority under Section 61.34, Wis. Stat., to enact ordinances promoting the health, safety and welfare of the public.

9.81(1)(b) Residency and Safety Restrictions for Designated Offenders. The Wisconsin Statutes govern the punishment of individuals who commit sex crimes, and the Village of Lomira has no authority or intent to intervene in either area. The Village of Lomira recognizes statutory residency restrictions and the limited exemptions enumerated in Section 980.135, Wis. Stat., for sex offenders released pursuant to Section 908.08, Wis. Stat. Nothing in this ordinance should be construed to apply to an offender currently in compliance with all court orders issued under Ch. 980, Wis. Stat., or to a person providing housing to the offender in compliance with those court orders.

9.81(1)(c) Purpose. This ordinance is a non-punitive, civil regulatory measure aimed at protecting the public health, safety and welfare of the children and citizens of the Village of Lomira from the risk that convicted sex offenders may re-offend in locations close to their residences. The Village finds and declares that sex offenders who prey upon children are a serious threat to public safety and it is necessary for the Village to enact reasonable measures to reduce the opportunity and minimize the risk of recidivism by protecting children where they congregate or play in public places in addition to the protections afforded by state law near schools and other places children frequent.

9.81(2) SEXUAL OFFENDER RESIDENCY RESTRICTION. DEFINITIONS. 9.81(2)(a) "Child" means a person under the age of sixteen (16) years old.

9.81(2)(b) "Court Mandated Supervision" means a term of extended supervision, probation, community supervision, or similar programming as imposed on a criminal or juvenile offender by a court or probation agent.

9.81(2)(c) "Designated Offender" means any person who is required to register under §301.45, Wis. Stats., for any offense against a child. This definition does not include a person who is released under Section 980.08, Wis. Stat., so long as the person is subject to supervised release under Chapter 980 Wis. Stat., the person is residing where he or she

is ordered to reside under Section 980.08, Wis. Stat., and the individual is in compliance with all court orders issued under Chapter 980, Wis. Stat.

9.81(2)(d) “Domicile” (“domiciled”) means the true, fixed and permanent residence of the offender, and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time. The domicile address shall not be a post office box or similar depository.

9.81(2)(e) “Hospital” has the meaning given in Section 50.33(2)(a), Wis. Stat.

9.81(2)(f) “Residence” means the place where an offender sleeps, which may include more than one location, and may be mobile or transitory.

9.81(2)(g) “Treatment Facility” has the meaning given in Section 51.01(19), Wis. Stat.

9.81(3) RESIDENCY RESTRICTION. A designated offender shall not establish a residence in any location on a parcel of land, which, in whole or in part, is within one thousand five hundred (1,500) feet of the real property comprising any of the following uses:

9.81(3)(a) Any facility for children, which means a public or private school, group home as defined in Section 48.02(7), Wis. Stat., a residential care center for children and youth, as defined in Section 48.02(15)(d), Wis. Stat., a shelter care facility as defined in Section 48.02(17), Wis. Stat., a day care center licensed under Section 48.65, Wis. Stat., a day care program established under Section 120.13(14), Wis. Stat., a day care provider certified under Section 48.651, Wis. Stat., and/or

9.81(3)(b) A facility for:

9.81(3)(b)1. A public park. Recreational trails shall not constitute a public park except where the recreation trail is wholly within the confines of a public park.

9.81(3)(b)2. A public swimming pool.

9.81(3)(b)3. A public library operated pursuant to Chapter 43, Wis. Stat.

9.81(3)(b)4. School grounds as defined in Section 895.523(1)(g), Wis. Stat., but also shall include such grounds of a “private school” as defined in Section 115.001(3)(r), Wis. Stat.

9.81(3)(b)5. A child care center as defined in Section 49.136(1)(ad), Wis. Stat., a child care facility as defined in Section 980.01(1)(g), Wis. Stat.

9.81(3)(c) The distance shall be measured from the closest boundary line of the real property supporting the residence of a designated offender to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances shall be created annually. Such map shall be the official map for purposes of this section until the new annual map is created and filed annually. The official map shall be on file in the office of the Village Clerk for public inspection.

9.81(4) ORIGINAL DOMICILE RESIDENCY RESTRICTION. In addition to any other restrictions imposed by this chapter, a designated offender shall not be permitted to establish a residence in the Village unless that person was domiciled in the Village at the time of the most recent offense which causes the person to be a designated offender.

- 9.81(5) RESIDENCY RESTRICTION EXCEPTIONS. A designated offender does not violate Sections 9.81(3) or 9.81(4) if any of the following apply:
- 9.81(5)(a) The designated offender is serving a current sentence which requires the designated offender serve a commitment at a jail, prison, juvenile facility, or other correctional institution or facility that would otherwise violate this code.
- 9.81(5)(b) The designated offender has established a residence prior to the effective date of this ordinance.
- 9.81(5)(c) The designated offender has established a residence within one thousand (1,000) feet of the location(s) restricted in Section 9.81(3) prior to that restricted location existing.
- 9.81(5)(d) The designated offender is a minor or ward under guardianship.
- 9.81(5)(e) The designated offender's most recent offense, which falls under Section 9.81(2)(c), occurred more than ten years ago and it has been at least ten years since the designated offender has completed any period of incarceration or court mandated supervision for any offense.
- 9.81(5)(f) The residence is a hospital or treatment facility.
- 9.81(6) PROTECTED AREAS BORDERING THE VILLAGE OF LOMIRA. If a municipality that is adjoining the Village contains a facility that meets the criteria set forth in Section 9.81(3) and is within one thousand (1,000) feet of the Village's border, the prohibited area around that facility will be measured by using the least restrictive residence restriction ordinance between the Village and that of the adjoining municipality where the facility is located.
- 9.81(7) VIOLATIONS. Any person who violates any provision in this chapter shall be subject to a forfeiture of not less than \$50 and not more than \$150 for each violation, together with the costs of prosecution. Each day a violation continues shall constitute a separate offense. The Village may also bring an action to permanently enjoin such residency as a public nuisance.
- 9.81(8) APPEAL. A designated offender may request an exemption from this chapter.
- 9.81(8)(a) Procedure. A designated offender may request an exemption from this chapter by submitting a written request for exemption, including any pertinent rationale for an exemption, to the Village of Lomira Police Department prior to establishing a residence that would be in violation of this chapter or within thirty (30) days after notification that the designated offender is in violation of this chapter. The Chief of Police or his/her designee shall conduct a review of the request for an exemption using any pertinent information and the criteria set forth in subsection (C) of this section. The Chief of Police or his/her designee shall approve, approve an exemption subject to necessary conditions (hereafter "conditional exemption"), or deny the request. The Chief of Police or his/her designee shall issue the decision within the designated offender and the Village Clerk. Any request for an exemption which has not been approved, approved for a conditional exemption, or denied by the chief of Police or his/her designee within thirty (30) days of the request shall be deemed to be denied for the purpose of this chapter.

9.81(8)(c) The Chief of Police or his/her designee and/or the Village Board shall base their decision upon any factors related to the Village's interest in promoting, protecting, and improving the health, safety, and welfare of the community, including, but not limited to:

9.81(8)(c)1. The nature of the predicate offense causing the appellant to be a designated offender.

9.81(8)(c)2. Police reports related to the predicate offense if available.

9.81(8)(c)3. Proximity of the requested residence to the victim.

9.81(8)(c)4. The age of the offense, offender, and victim.

9.81(8)(c)5. Recommendation of the probation or parole officer, if one exists.

9.81(8)(c)6. Recommendation of the police department.

9.81(8)(c)7. Recommendation of any treatment practitioner.

9.81(8)(c)8. Proposals for safety measures and assurances by the designated offender.

9.81(8)(c)9. Conditions to be placed on any exception or variance from the requirements of this chapter.

9.81(8)(c)10. Support systems in place by the designated offender.

9.81(8)(c)11. Who the designated offender will be or is living with at the prohibited location.

9.81(8)(c)12. Statements of the surrounding community or victim.

9.81(8)(c)13. Treatment, sobriety, or rehabilitative measures taken by the designated offender.

9.81(8)(c)14. The designated offender's current employment or social activities.

9.81(8)(c)15. The designated offender's criminal history.

9.81(8)(c)16. Whether the designated offender meets any of the exceptions listed in Section 9.81(5).

9.81(8)(d) The Village Board shall issue a decision by a majority vote. The Village Board may decide to deny an exemption, issue an exemption, or issue a conditional exemption. A written copy of the decision shall be provided to the designated offender in person or by first-class mail at the designated offender's last-known address. A designated offender must consent to the terms of the conditional exemption for the conditional exemption to be valid, and must demonstrate acceptance of the terms of the conditional exemption by signing and dating a copy of the Village Board's decision and conditions. The designated offender must provide a copy of the signed conditional exemption to the Village Clerk's office and the Village of Lomira Police Department. The designated offender will have fourteen (14) days from the date or the conditional exemption will be deemed as void and the appeal denied by the Village Board. A designated offender need not sign an exemption that has been denied by the Board or an exemption approved without any

necessary conditions by the Village Board. Any decision of the Village Board may be appealed to the circuit court.

9.81(8)(e) A conditional exemption may include, but is not limited to, the following terms:

9.81(8)(e)1. Curfew restrictions.

9.81(8)(e)2. Cohabitant restrictions or requirements.

9.81(8)(e)3. Sobriety restrictions.

9.81(8)(e)4. Conduct restrictions.

9.81(8)(e)5. Residency restrictions.

9.81(8)(f) If an exemption or conditional exemption is granted by the Chief of Police or his/her designee or the Village Board that exemption will only apply to the specific designated offender who had applied for the exemption at the requested residence and shall not be transferable to any other or to any other location.

9.81(8)(g) An exemption expires when the designated offender who was granted said exemption changes his/her domicile and/or changes his or her residence, whether within the Village or outside the Village.

9.81(8)(h) An exemption or conditional exemption issued by the Chief of Police or his/her designee or the Village Board may be revoked by the Chief of Police or his/her designee if the designated offender is found to have violated the conditions or there is probable cause to believe the designated offender has committed (an) additional act(s), which had occurred either before or after the exemption or conditional exemption was issued, that would cause a person to be classified as a designated offender. The Chief of Police or his/her designee shall provide written notice to the designated offender that the exemption or conditional exemption has been revoked. This notice shall be deemed properly delivered if sent by either first class mail to the designated offender's last known address or if delivered in person to the designated offender's last known address. If the designated offender cannot be located, the notice shall be deemed to be properly delivered if a copy is left at the designated offender's address which had been exempted in the presence of some competent member of the family at least fourteen (14) years of age or a competent adult currently residing there. If notice cannot be so served, it may be served by publishing a Class 1 notice. The revocation of an exemption may be appealed to the Village Board pursuant to the above procedure.

9.81(8)(i) For the purpose of this chapter, pursuant to Section 68.16, Wis. Stat., the Village of Lomira is specifically electing not to be governed by Chapter 68, Wis. Stat.

9.81(8)(j) If the Village Board denies the request for exemption or upholds a revocation of exemption or conditional exemption, the designated offender may appeal the decision within thirty (30) days to the circuit court.

9.81(8)(k) Severability. If any part of this section is found to be unconstitutional or otherwise invalid, the validity of the remaining parts shall not be affected.

Chapter 10

TRAFFIC CODE

10.01	State Traffic Laws Adopted
10.03	Through Streets
10.04	Traffic Controls Signal Intersections
10.05	Parking Regulations
10.06	Bicycles
10.07	Nonmoving Violation and Registration Program
10.08	Emergency Traffic Regulations
10.09	Parking on Streets
10.10	Village Parks
10.11	School Bus Flashing Lights
10.12	Special or Seasonal Highway Weight Limitations
10.13	One-Way Streets Designated
10.14	Truck Traffic Regulated on Certain Village Streets
10.15	Erection of Signs and Signals
10.16	Traffic Signs
10.17	Penalty
10.18	Enforcement

- 10.01 STATE TRAFFIC LAWS ADOPTED. Except as otherwise specifically provided in this chapter, all the statutory provisions and regulations contained in Chs. 341 to 348 and Ch. 350, Wis. Stats., and §§349.215, 941.01 and 941.03, Wis. Stats., describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture, including penalties to be imposed and procedures for prosecution, and any future amendments thereto, are hereby adopted and by reference are made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter.
- 10.03 THROUGH HIGHWAYS. The Village Board, when it deems it necessary for the public safety, reserves the right by ordinance or resolution, to designate any highway or portion thereof within the Village limits as a through highway, with same being an amendment to this section at any time, with such designations being adopted by reference to be a through highway is effective until official stop signs or traffic control signals have been installed at the entrances thereto from other highways. (See also §§349.07(3) and 94), Wis. Stats.).
- 10.04 CONTROL SIGNAL INTERSECTIONS. The Village Board reserves the right to install and determine control signal intersections by amendment to this section at any time, with such designations being adopted by reference hereto as if fully set forth herein. (See also §349.065, Wis. Stats.)
- 10.05 PARKING REGULATIONS. (1) STREETS: NO PARKING. (a) There shall be no parking upon any Village street or portion thereof where the Village has placed “NO PARKING” signs. The Village Board reserves the right to determine the designation of no parking locations by amendment to this section at any time. With such designations being adopted by reference hereto as if fully set forth herein.
- 10.05(1)(b) MILWAUKEE STREET. There shall be no parking on Milwaukee Street (Highway 175) within the Village between North Avenue and Maple Street. Parking is prohibited on the west side and east side of the street. “No Parking” signs are placed in this location.
- 10.05(2) SEASONAL RESTRICTIONS. There shall be no parking on any Village street on any day between 3:00 A.M. and 6:00 A.M. from November 15th to March 15th. This subsection shall not apply to emergency vehicles on active duty. (recr. fr. §10.04.050)
- 10.05(3) RESTRICTED PARKING AREAS. (a) Two (2) Hour Parking. Parking is prohibited for more than 2 hours in those areas or on those streets or portions thereof so designated by Village signs and markings.
- 10.05(3)(b) Three (3) Hour Parking. Parking is prohibited for more than 3 hours in those areas or on those streets or portions thereof so designated by Village signs or markings providing for same.

10.05(3)(c) Fifteen (15) Minute Parking. Parking is prohibited for more than 15 minutes on South Avenue from 4th Street to 3rd Street, Monday through Friday between the hours of 3:00 P.M. to 4:00 P.M.

10.05(4m) The Village Board reserves the right to determine the designations under sub. (3) by amendments at any time, with such designations being adopted by reference hereto as if fully set forth herein.

10.05(5) PHYSICALLY DISABLED PARKING. Parking, stopping, or standing prohibited in parking spaces reserved for vehicles displaying special registration plates or special identification cards. Except for a motor vehicle used by a physically disabled person as defined under §345.503 (1), Wis. Stats., no person may park, stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, upon any portion of a street, highway or parking facility reserved, by official traffic signs indicating the restriction for vehicles displaying special registration plates or a special identification card issued under §343.51, Wis. Stats.

10.05(6) OTHER RESTRICTIONS ON PARKING AND STOPPING. (a) No person shall stop or leave any vehicle standing in any of the following places except temporarily for the purpose of and while actually engaged in loading or unloading in receiving or discharging passengers and while the vehicle is attended by a licensed operator so that it may promptly be removed in case of an emergency or to avoid obstruction of traffic:

1. In an alley;
2. Within 10 feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign;
3. Within 4 feet of the entrance to an alley or a private road or driveway;

10.06(b) Owners or lessees of public or private property may permit parking by certain persons and limit, restrict or prohibit parking as to other persons if the owner or lessee posts a sign on the property indicating for whom parking is permitted, limited, restricted or prohibited. No person may leave or park any motor vehicle on public or private property contrary to a sign posted thereon.

10.06(c) When parking on the streets and in parking lots where parking spaces are indicated on the pavement, vehicles shall park within the indicated spaces.

10.05(6)(d) Trailers are prohibited from being parked on any Village street for more than a 24-hour period. Village winter parking ordinance 10.05(2) will over-ride this ordinance.

10.05(7) PARKING PROHIBITED. No person shall park a bus, recreational vehicle, trailers of any size or type, or truck which is more than 30 feet in length on any local street, alley or State highway in the Village of Lomira at any time.

10.05(7)(a) RECREATIONAL VEHICLE defined as any motor vehicle designed or modified for use on unimproved terrain if used for recreation or pleasure off a public way. Examples include ATVs, UTVs, boats, snowmobiles, motorhomes or any other vehicle that receives approval by the Lomira Police Department.

10.05(7)(b) Residents are limited to park one bus, recreational vehicle, trailers or any size or type, or truck less than 30 feet in length in the driveway of the property.

10.05(7)(c) Vehicles and trailers being stored in a residential district may be parked on the road, per Traffic Code 10.05(6)(d) or may be parked on the owner's property and

must be in the driveway. Recreational vehicles and trailers parked on the driveway must not be more than 30 feet in length and must be clear of, and set back behind, the sidewalk. Entire widths of the sidewalk must be passable.

10.05(7)(d) Parked vehicles and trailers must be licensed, registered and insured as required by Wisconsin State law.

10.05(7)(e) Parked item(s) must be in usable/functional condition.

10.05(7)(f) Parked item(s) cannot be used as a dwelling for more than 24 hours.

10.05(7)(g) Special parking consideration will be given on a case by case basis by the Lomira Police Department.

10.05(7)(h) The Lomira Police Department has the authority to direct an owner to move his/her parked item to a different location, on or off the roadway, if it is deemed to be a safety hazard by the officer on duty.

10.06 BICYCLES. (1) LICENSE REQUIREMENT. (a) No person shall ride or propel a bicycle upon any street, alley, sidewalk, or other place in the Village without first having obtained and attached to the bicycle a proper license plate, as provided by this section. "Bicycle," as used in this section, has the meaning provided in §340.01(5), Wis. Stats.

10.06(1)(b) Nothing in this section shall be interpreted to prohibit the issuance of a license to owners of bicycle type vehicles having smaller diameter wheels than as set forth in §340.01(5), Wis. Stats., upon request, but such licenses, when so issued, shall be for the sole purpose of aiding in the recovery of such vehicles in case of loss or theft and shall not be construed as allowing such vehicles to be operated upon the public roadway in violation of §346.78, Wis. Stats. (renum. Fr. Ord. 103 §1, 1970)

10.06(2) LICENSE APPLICATION. (a) Every bicycle in the Village shall be inspected at the municipal building for a serial number before an application for a license is considered. If such bicycle has no serial number, a serial number shall be stamped on the frame of such bicycle at the Village Police Department. The police officer making such inspection shall write the serial number found or stamped on the bicycle on an application form provided by the Chief of Police.

10.06(2)(b) Application for a bicycle license shall be made to the Police Department who shall provide a proper form therefore. Upon inspection and proper application, accompanied by a license fee for \$5, the Police Department shall issue, or cause to be issued, a proper bicycle household license sticker, which shall be effective from date of issue and for as long as licensed bicycle remains in that household. Application shall be made within 10 days after purchase or acquisition. (renum. fr. Ord. 103, sec2, 1970; Ord. 154, 1982; Ord. 180, 1986, §10.12.010)

10.06(2)(c) Licenses Display, Removal and Unauthorized Use of Bicycle. Bicycle licenses shall be affixed upon the bicycle in a prominent place. No person shall deface or mutilate a license sticker placed upon any bicycle, nor shall any person take any bicycle for the purpose of riding or propelling the same upon the streets or other public way of the Village without the consent of the owner or person in the rightful possession thereof. No person other than the owner or a police officer of the Village shall remove any such license sticker attached to any bicycle, or upon a change of ownership requiring

registration under Section 10.12.010. (renum. Fr. Ord. 103, sec. 4, 1970; Amended Ord. 180, 1986, §10.12.030)

10.06(2)(d) Lost or Stolen License. Reissue of lost or stolen licenses will be made at a fee of \$1. (Renum. and am. fr. Ord. 103 55, 1970, §10.12.040)

10.06(3) APPLICATION OF OPERATIONAL REGULATIONS. The provisions of this section shall apply to all persons operating a bicycle upon the streets in the Village, whether such person is a resident of the Village or not. (Recr. fr. Ord. 103 §3(e), 1970 §10.12.180)

10.06(3)(a) Riding on Sidewalk Prohibited. No person, over the age of 10, shall ride any bicycle upon a sidewalk along any of the streets or highways in the Village. (Recr. and renum. fr. Ord. 4 520, 1899, §10.12.050)

10.06(3)(b) Carrying Passengers. No person shall ride or propel a bicycle on a street of the Village with another person upon said bicycle unless such bicycle is so constructed as to be a tandem bicycle. (Recr. fr. Ord. 103 53(a), 1970, §10.12.060)

10.06(3)(c) Careless Operation. It is unlawful for any person to operate a bicycle upon a street in the Village carelessly or heedlessly in disregard of the rights of safety of others or in a manner so as to endanger or be likely to endanger the property or person of others. (Renum. fr. Ord. 103 53(b), 1970, §10.12.070)

10.06(3)(d) Lights. Every bicycle operated upon a street between ½ hour after sunset and ½ hour before sunrise shall be equipped with a lamp on the front thereof exhibiting a white light visible from a distance of at least five hundred feet to the front, and with a red reflector on the rear as required by the Wisconsin Statutes. (Renum. fr. Ord. 103, 53(c), 1970, §10.12.080)

10.06(3)(e) Dangerous Operation. No person shall operate a bicycle upon the streets without having manual control of the handlebars or operate a bicycle in any other manner which necessitates the element of unusual or extraordinary skill and involves unnecessary risk. (Renum. fr. Ord. 103 53(d), 1970, §10.12.090)

10.06(3)(f) Riding Single File. No person shall ride or propel a bicycle upon any street in the Village abreast of any other person riding or propelling a bicycle. (renum fr. Ord. 103 53(f), 1970, §10.12.100)

10.06(3)(g) Right-turning Procedure. The operator of a bicycle intending to turn to the right at an intersection shall approach the point of turning in the traffic lane nearest the right-hand edge or curb of the street, and in turning, shall keep as closely as practicable to the right-hand edge or curb of the highway. (Recr. fr. Ord. 103 §3(g), 1970, §10.12.110)

10.06(3)(h) Left-turning Procedure. The operator of a bicycle intending to turn to the left at an intersection or into private driveway shall make such turn from the traffic lane immediately to the left of the center of the intersection, passing as closely as practicable to the left of the center of the intersection, and shall leave the intersection immediately to the right of the center of the intersecting street. (Recr. fr. Ord. 103 §3(h), 1970, §10.12.120)

10.06(3)(i) Illegal Procedure at Signal-controlled Intersection. At any intersection where traffic is controlled by a traffic-control signal or by a traffic officer, it is unlawful for the operator of a bicycle to turn the same at the intersection so as to proceed in the opposite direction. (Renum. fr. Ord. 103 §3(i), 1970, §10.12.130)

10.06(3)(j) U-turns. It is unlawful for the operator of any bicycle operating on any street in a business district, or upon any artery for through traffic in a residential district, to turn such bicycle so as to proceed in the opposite direction at any place, except at an intersection where such turns are permitted. (Renum. fr. Ord. 103 §3(j), 1970, §10.12.140)

10.06(3)(k) Passing Other Bicyclists. The operator of any bicycle overtaking another bicycle proceeding in the same direction shall pass such vehicle at a safe distance to the left thereof, but no person operating a bicycle shall pass or attempt to pass another bicycle proceeding in the same direction unless such passing can be made in safety and at a place on a street other than at an intersection. (Renum. fr. Ord. 103 §3(k), 1070, §10.12.150)

10.06(3)(L) Obedience to Traffic Officer. It is unlawful for the operator of any bicycle to refuse or fail to comply with any lawful order, signal, or direction of a traffic officer, and it is unlawful for any such operator of such bicycle upon any street to disobey the instructions of any official traffic sign, or signal placed in accordance with the laws of the state and with this code. (Renum. fr. Ord. 103 §3(l) 1970, §10.12.160)

10.06(3)(m) Clinging To, Attaching Other Conveyances to –prohibited. It is unlawful for any person to attach in any manner any wagon, side-car, kiddie-car, tricycle, or similar riding device to any bicycle while the same is being operated upon the streets. It is unlawful for any person while riding upon a bicycle upon the streets to cling to, attach, or hitch onto any wagon, or other vehicle of any kind. This shall not apply to manufactured bicycle trailers which are designed to transport small children or small quantities of material. (Renum. fr. Ord. 103 §3(m), 1970, §10.12.170)

10.06(4) VIOLATION AND PENALTY. Any person who violates any provision of this chapter, except subp. (3)(m) may be required to forfeit not less than \$20. Any person violating subp. (3)(m) may be required to forfeit not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or subsequent conviction within a year. (Recr. fr. Ord. 103 §6, 1970, §10.12.190)

10.07 NONMOVING VIOLATION AND REGISTRATION PROGRAM. (1) ESTABLISHED. In order to discourage nonmoving traffic violations and to encourage the payment of forfeitures imposed for such violations, the Village Board hereby establishes the Nonmoving Violation and Registration Program.

10.07(2) PARTICIPATION AUTHORIZED. Pursuant to the provisions of §345.28(4), Wis. Stats., the Village of Lomira elects to participate in the Nonmoving Traffic Violation and Registration Program of the Wisconsin Department of Transportation and pay the costs established by the department under §85.13, Wis. Stats., such costs shall, in turn, be assessed against persons charged with nonmoving traffic violations. The Village Attorney shall be responsible for complying with the requirements set forth in §345.28(4), Wis. Stats. This Section shall be effective upon passage and publication in accordance with state law.

10.08 EMERGENCY TRAFFIC REGULATIONS. (1) GERNEAL. The Village President, or if absent, his designee, may by proclamation etc. may by proclamation declare an emergency to exist within the Village whenever conditions arise which impair transportation, food or food supplies, medical care, fire, health or police protections or other vital facilities of the Village. While such proclamation is in effect the police department is authorized to restrict or remove traffic, both vehicular or pedestrian from any street or alley within the Village notwithstanding that such traffic would otherwise be

lawful under this section. The Village President shall make all reasonable efforts to publicize such proclamation. (See also §66.325, Wis. Stats.)

- 10.08(2) REMOVAL OF VEHICLES. Vehicles parked in violation of this section may be removed at the direction of a police officer to a legal parking area or to a designated central location. Any vehicle removed under this subsection shall be removed at the owner's expense.
- 10.09 PARKING ON STREETS. (1) LAWFUL PARKING SPECIFIED. Upon streets where stopping or parking is authorized or permitted, a vehicle is not lawfully stopped or parked unless it complies with the following requirements:
- 10.09(1)(a) Upon a street where traffic is permitted to move in both directions simultaneously, a vehicle must be parked parallel to the edge of the street, headed in the direction of traffic on the right side of the street;
- 10.09(1)(b) Upon a one-way street or divided street where parking on the left side of the roadway is clearly authorized by official traffic signs or markers, vehicles shall be parked as indicated by such markers;
- 10.09(1)(c) In parallel parking, a vehicle shall be parked facing in the direction of traffic with the right wheels within 12 inches of the curb or edge of the street when parked on the right side and with the left wheels within 12 inches of the curb or edge of the street when parked on the left side. In parallel parking, a vehicle shall be parked with its front end at least two feet from the vehicle in front and with its rear end at least two feet from the vehicle in the rear, unless a different system of parallel parking is clearly indicated by official traffic signs or markers.
- 10.09(1)(d) No person shall be parked on any village street for a period in excess of 72 hours without being moved during that period of time.
- 10.09(1)(e) No vehicle, disabled or non-operational, shall be parked on any village street for more than 24 hours.
- 10.09(2) PARKING PROHIBITED IN SPECIFIED PLACES. It shall be unlawful for the operator of a vehicle to park such vehicle in any of the following places except to comply with the directions of a traffic/police officer or traffic control signal or sign:
- 10.09(2)(a) In a loading zone;
- 10.09(2)(b) In an alley in a business district;
- 10.09(2)(c) Within 15 feet of a driveway entrance of a fire station or directly across the highway from such entrances;
- 10.09(2)(d) Within 10 feet of a fire hydrant unless a greater distance is indicated by an official traffic sign;
- 10.09(2)(e) Within four feet of the entrance to an alley or a private road or driveway;
- 10.09(2)(f) Upon any portion of a highway right-of-way when such highway is properly designated by an official "No Parking" sign, erected pursuant to the authority and direction of the Village Board;

10.09(2)(g) On a highway adjacent to the entrance to a school, church, hotel, or any other place of public assemblage during the hours designated by an official sign.

10.09(2)(h) Closer than two feet to another vehicle when parking parallel to the edge of the highway;

10.09(2)(i) Closer than 15 feet to the near limits of a crosswalk;

10.09(2)(j) In or upon any private driveway other than his own driveway, without the consent of the owner of such driveway, in such a manner as to block said driveway or interfere with the free passage of vehicles over said driveway, or egress from or ingress to any garage to which said private driveway leads.

10.09(3) **REMOVAL AUTHORITY.** Traffic officer may move vehicle parked on the Highway. Whenever any traffic officer shall find a vehicle standing upon a highway in violation of the provisions of the Village of Lomira traffic regulations, said officer is authorized to move such vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this section. Any vehicle removed under this subsection by order of the Village police shall be removed at the owner's expense.

10.10 **VILLAGE PARKS.** (1) **MOTOR VEHICLES RESTRICTED.** No motor vehicle shall be permitted in Village parks between the hours of 11:00 P.M. and 8:00 A.M.

10.10(2) **CAMPING, SLEEPING AND PICNICKING REGULATED.** No camping shall be permitted in Village parks, nor shall anyone be permitted to sleep, picnic or make any other use thereof between the hours of 11:00 P.M and 8:00 A.M.

10.10(3) **PENALTY.** Any person or vehicle in violation of any provision of this section shall be subject to penalties as provided for in §25.04, of this Code.

10.11 **SCHOOL BUS FLASHING LIGHTS.** (1) **AUTHORIZED USE.** Pursuant to §349.21, Wis. Stats., or its successor, school bus operators are authorized to use flashing red warning lights in certain residential and business districts within the Village when pupils or other authorized passengers are to be loaded or unloaded at a location at which there are no traffic signals and such persons must cross the street or highway before being loaded or after being unloaded.

10.11(2) **LOCATIONS SPECIFIED.** The Village Board reserves the right to make designations hereunder. The same being adopted by reference hereto as if fully set forth herein.

10.12 **SPECIAL OR SEASONAL HIGHWAY WEIGHT LIMITATIONS.** (1) **AUTHORITY.** No person, whether operating under a permit or otherwise, shall operate a vehicle in excess of the special weight limit established in accordance with §349.16, Wis. Stats., on any Village street, highway, highway structure, or portions of highway, when signs have been erected giving notice of such weight limitation, except when the vehicle is being operated under a permit expressly authorizing such weight limitation to be exceeded.

10.12(2) **WEIGHT LIMIT SIGNS.** Imposition of the special weight limitation referred to in subs. (1) shall be done by erecting signs on or along the street or highway on which it is desired to impose the limitation sufficient to give reasonable notice that the special weight limitation is in effect and the nature of that limitation. Imposition of the weight limitation on bridges or culverts shall be done by erecting signs before each end of the bridge or culvert to which the weight limitation applies sufficient to give reasonable notice that a

special weight limitation is in effect and the nature of that limitation. All weight limitation signs and their erection shall comply with the rules of the Wisconsin Department of Transportation.

10.12(3) EXEMPTION(S). The Village Board or the officer in charge of maintenance of the street or highway may exempt vehicles carrying certain commodities specified by the Village Board or by the officer in charge of maintenance or which are used to perform certain services specified by the Village Board or by the officer in charge of maintenance, including but not limited to pumping septic or holding tanks from the special weight limitation referred to above, or may set different weight limitations than those imposed above for vehicles carrying those commodities or which are used to perform those services, if such exemption or limitation is reasonable and necessary to promote the public health, safety and welfare.

10.12(4) PENALTY FOR VIOLATING WEIGHT LIMITATIONS. Any person violating this section may be penalized as follows: (a) If the weight exceeds by 1,000 pounds or less the maximum set forth above, a forfeiture of not less than \$50 nor more than \$100 upon first conviction, and, upon the second and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$200.

10.12(4)(b) If the weight exceeds by more than 1,000 pounds the maximum set forth above, for the first conviction, a forfeiture of not less than \$50 nor more than \$200. For the second and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$300.

10.13 ONE-WAY STREETS DESIGNATED. The Village Board reserves the right to regulate the flow of vehicle traffic by designating any street or alley as “ONE WAY” with the same being adopted by reference hereto as if fully set forth herein.

10.14 TRUCK TRAFFIC REGULATED ON CERTAIN VILLAGE STREETS. (1) WEIGHT LIMIT RESTRICTIONS AND DESIGNATIONS. In accordance with §349.17, Wis. Stats., it shall be unlawful for any person to operate any vehicle having a gross weight over 20,000 pounds on any street other than a federal, state or county trunk highway or on the streets designated in subs. (4), except such operation shall be permitted for the following purposes:

10.14(1)(a) For the moving or delivery of supplies or commodities to or from any place of business or residence via the shortest route from the truck route to their destination;

10.14(1)(b) For the passage of emergency vehicles;

10.14(1)(c) For the passage of vehicles operated for purpose of performing maintenance to the Village streets or installations, snow removal, street cleaning, refuse removal, or curb pick-up, and for the passage of vehicles involved in maintenance or repair of public utility installations within the Village.

10.14(2) VILLAGE BOARD DESIGNATIONS. The Village Board by ordinance or resolution reserves the right to add or delete streets open to heavy vehicle traffic in subs. (4) at their discretion. Said changes resulting in additional designations are by reference made a part hereof as if fully set forth herein. (recr. fr. Ord. No. 195, 1990 during recodification 1999)

10.14(3) NOTICE AND POSTING. Notice of the prohibition of heavy vehicles on certain streets shall be posted at all entrances to the corporate limits of the Village of Lomira.

- 10.14(4) VILLAGE ROADS OPEN TO HEAVY TRAFFIC. (a) Richard Street from CTH HH to Acorn Drive;
- 10.14(4)(b) Main Street from STH 175 (Milwaukee Street) to USH 41;
- 10.14(4)(c) Water Street from north Village limits to south Village limits;
- 10.14(4)(d) East Avenue from STH 67 to north Village limits;
- 10.14(4)(e) Pleasant Hill Avenue from STH 67 to south Village limits.
- 10.14(5) PENALTY. The penalty for violation of any provision of this section shall be a forfeiture of not less than \$50 nor more than \$100 plus the cost of prosecution for the first offense, and not less than \$100 nor more than \$500 plus the cost of prosecution for the second and any subsequent violation. (Recr. fr. Ord. No. 193, 1989 and Ord. No. 195 amending §10.04.056 and 10.04.030 [partial])
- 10.15 ERECTION OF SIGNS AND SIGNALS. (1) GENERAL. The Chief of Police is hereby authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals and markings, conforming to the uniform traffic control devices manual under §84.02 (4) (e), Wis. Stats. Signs and signals shall be erected in such locations and manner, as authorized by the Village Board, as to give adequate warning to users of the streets, alley or highway in question.
- 10.15(2) TEMPORARY CONTROLS. The Chief of Police is hereby authorized and directed to establish such temporary traffic control measures as may be required as a result of the construction, repair, closure, or maintenance of streets, bridges, or any other related project which requires temporary traffic controls. Such temporary measures shall include but are not limited to the establishment of one-way streets and alleys; turn prohibitions; parking, speed, and trucking regulations; the installation of traffic control signals and stop signs; the painting of pavement markings; and barricading and detouring.
- 10.15(3) REMOVAL OF TEMPORARY CONTROLS. The Chief of Police is authorized and directed to have removed all temporary signs, signals, and appurtenances required for the re-routing of traffic within a reasonable period of time after the completion of that part of the project for which the temporary provisions have been made.
- 10.15(4) STATUS. All signs and signals erected pursuant to, sub. (2) shall be official traffic signs and signals until they are removed pursuant to subs. (3).
- 10.15(5) PARKING SIGNS TO BE ERECTED. The Village Board shall see that suitable signs are erected on all streets and highways affected by this chapter. Where applicable, signs shall indicate the time allowed for parking on such streets and highways.
- 10.16 TRAFFIC SIGNS. (1) STOP SIGNS. The Village Board reserves the right to designate by amendment to this subsection any intersection to be controlled by a “STOP” sign, the same being adopted by reference as if fully set forth herein.
- 10.16(2) YIELD SIGN. The Village Board reserves the right to designate by amendment to this subsection any intersection to be controlled by a “YIELD” sign, the same being adopted by reference as if fully set forth herein.

- 10.16(3) **RIGHT TURN NO STOP.** The Village Board reserves the right to designate by amendment to this subsection any intersection to be controlled by a “RIGHT TURN NO STOP” sign, the same being adopted by reference as if fully set forth herein.
- 10.17 **PENALTIES.** The penalty and assessments for violation of any provision of this chapter shall be a forfeiture as herein provided together with the costs of prosecution and the penalty assessments imposed under applicable Wisconsin Statutes.
- 10.17(1) **STATE FORFEITURE STATUTES.** (a) Forfeitures for violation of §10.01 shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses, provided that the forfeiture for a nonmoving violation shall not be less than provided in the Revised Uniform State Traffic Deposit Schedule of the State of Wisconsin.
- 10.17(1)(b) Actions to recover forfeitures shall conform to §799.01, Wis. Stats., except as a different procedure is prescribed in Chs. 23, 66, 345 and 778, Wis. Stats., or elsewhere, and such different procedures shall apply equally regardless of any limitation contained therein.
- 10.17(2) **STATE FINE STATUTES.** The forfeiture of violation of any statute adopted by reference hereunder for which the penalty is a fine shall not exceed the maximum fine permitted under such statute.
- 10.17(3) **LOCAL REGULATIONS.** Except as otherwise provided in this chapter, the penalty for violation of §§10.02 and 10.04 of this chapter shall be as provided in §25.04 of this Code.
- 10.17(4) **PARKING VIOLATIONS.** (a) Uniform State-wide Parking, Stopping and Standing Offenses. The minimum and maximum forfeitures for violation of offenses described in §§346.51 to 346.55, Wis. Stats., adopted by reference in §10.01 of this chapter, shall be as follows:

	Forfeiture	Minimum	Maximum
346.505(2)	Parking in spaces reserved for physically disabled	\$50	\$30
346.51(1)	Improper parking on/off roadway	30	300
346.52(1)	Stopping/standing in prohibited areas	20	40
	Second conviction within one year	50	100
346.52(2)	Stopping/standing on highway by grade school	20	40
	Second conviction within one year	50	100
346.53	Parking/standing where prohibited	20	40
	Second conviction within one year	50	100
346.54	Improper parking/standing of vehicle	20	40
	Second conviction within one year	50	100
346.55(1)	Parking on left side of highway	30	300
346.55(3)	Parking on posted private property	20	40
	Second conviction within one year	50	100

10.17(4)(b) Overtime Parking. The forfeiture of violations of §10.05(4) of this chapter shall be \$25. Each hour during which a violation occurs shall be considered a separate offense.

10.17(4)(c) Other Parking Violations. Except as otherwise specifically provided in this chapter or in state statutes, the penalty for all other parking violations not included under pars. (a) and (b) shall be subject to a forfeiture of not less than \$20 nor more than \$40 for

the first offense and not less than \$50 nor more than \$100 for the second or subsequent conviction within a year.

10.18 ENFORCEMENT. (1) ENFORCEMENT PROCEDURE. This chapter shall be enforced according to §66.12, §§345.11 to 345.61 and Ch. 799, Wis. Stats.

10.18(2) STIPULATION AND/OR DEPOSIT OPTIONS. (a) Deposit Only. 1. A person may make a cash deposit in the amount indicated on the citation. The deposit is to be mailed or personally delivered to the Dodge County Clerk of Courts or Village of Lomira Police Department within 10 days.

10.18(2)(a)2. If the cash deposit is made in a timely manner and the person does not appear, the failure to appear will be considered as a plea of no contest and subject such person to forfeiture not to exceed the amount of the deposit.

10.18(2)(a)3. Even if the person makes a deposit, he may appear at the time indicated on the citation and enter a plea to the charge. The cash deposit shall be retained for application against any forfeiture or penalty assessment which the court may assess.

10.18(2)(b) Stipulation and Deposit. 1. A person may make a cash deposit of the amount indicated on the citation. The person shall sign the stipulation on the bottom of the backside of the citation. The person shall return the signed citation and deposit in person or by mail to the Dodge County Clerk of Courts or the Village Police Department within 10 days.

10.18(2)(b)2. The stipulation and cash deposit, if made timely, is a plea of no contest and will subject the person to forfeiture and costs not to exceed the amount of the deposit.

10.18(2)(b)3. After signing the stipulation, the person may, at any time prior to and at the time of the court appearance date, request the court accept withdrawal of the stipulation. The court may act on the motion, relieving the person of the effects of the stipulation.

10.18(2)(c) Plea of Not Guilty. The person may, by mail prior to the court date, enter a plea of not guilty and request another date for the court appearance. The person must include a statement of the reason for not appearing, along with the person's current address. This request shall be mailed to the Dodge County Clerk of Courts within 15 days of date of issuance of the citation.

10.18(2)(d) Failure to Appear. 1. If the person does not make a deposit and fails to appear in court at the time indicated on the citation, the court may issue a summons or an arrest warrant for the person.

10.18(2)(d)2. If the person does not make a deposit and fails to appear in court at the time indicated, he or she may be found guilty by default. In such case an action for collection of forfeiture, penalty assessments and court costs may be commenced against the person.

10.18(3) PETITION TO REOPEN JUDGEMENT. Whenever a person has been convicted in this State on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required under §345.27(1) and (2), Wis. Stats., the person may, within 60 days after being notified of the revocation or suspension of the operating privilege, petition the court to reopen the judgment and grant the person an opportunity to defend on merits. If the court finds that the petitioner was not informed as required under §345.27(1) and (2), Wis. Stats., the court shall order the judgment reopened. The court

order reopening the judgment automatically reinstates the revoked or suspended operating privilege.

- 10.18(4) NOTICE OF LICENSE SUSPENSION PENALTIES. (a) If the court accepts the person's deposit or deposit and stipulation or if he or she is otherwise convicted of the violation, he or she may be subject to mandatory suspension of driver's license as provided in par. (b) below.
- 10.18(4)(b) If an underage person is convicted of violating §§125.07(1), (3) or (4) or 125.09(2), Wis. Stats., prohibiting purchase, sale and possession of intoxicants by underage person, or a local ordinance in strict conformity therewith, the court may suspend the person's operating privilege for 30-90 days for the first violation; not more than 1 year for second violation in a year; and for 2 or more violations in a year, revoke the driver's license for not more than 2 years. If the person subject to suspension or revocation under this subsection does not hold a valid license on the date of disposition, the suspension or revocation hereunder shall commence on the date that such a license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years from the date of disposition, whichever occurs first.

Chapter 10.19 ATV/UTV Routes and Regulations

- 10.19.01 INTENT. The Village of Lomira, Dodge County, adopts the following ATV and UTV routes for the operation of said vehicles on all Village Streets. Following due consideration of the recreational value to connect trail opportunities and weighed against possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this ordinance has been created.
- 10.19.02 STATUTORY AUTHORITY/STATE LAWS ADOPTED. Open usage of Village streets is done pursuant to Village authority as authorized in Wisconsin Statute §23.33 (8) (b). The statutory provisions of Section 23.33 and Chapters 340 to 348 of the Wisconsin Statutes, establishing definitions and regulations with respect to ATVs and UTVs and Chapter NR 64 of the Wisconsin Administrative Code are adopted here by reference. Unless otherwise specifically provided here, any act required to be performed or prohibited by any statute or administrative code provision incorporated here is required or prohibited by this ordinance. Any future amendments, revisions or modifications of the Wisconsin Statutes or Wisconsin Administrative Code incorporated here are made a part of this ordinance in order to secure uniform statewide regulation of ATVs and UTVs.
- 10.19.03 DESIGNATION OF ATV/UTV ROUTES. No person shall operate an off road vehicle on any Village street, alley, park or parking lot, on any public lands or parking lots held open to the public, or on any land within the Village that is zoned residential, except as provided below:
1. In accordance with Section 23.33(8)(b)2 of the Wisconsin Statutes and unless otherwise posted, all streets, roads and public alleys within the Village are designated ATV and UTV routes, except all county highways, state trunk highways or connecting highways with a speed of 35 MPH or greater, unless the applicable County or State authority approves such a designation.
 2. In accordance with section 23.33(11)(am)(4) of the Wisconsin Statutes, the Village authorizes the operation of ATVs and UTVs on all approved ATV and UTV routes within the Village as identified in subsection (1) above, and on all county highways, state trunk highways or connecting highways with a speed limit of 35 MPH or less where the applicable county or state authority approves such a designation.

3. The Village or its designee reserves the right to close or modify ATV and UTV routes within its jurisdiction at any time.
4. All ATV and UTV routes shall be signed in accordance with NR 64.12 and NR 64.12(7)(c) of the Wisconsin Administrative Code. The Village or its designee shall maintain all ATV route signs within the Village, including without limitation, on state trunk highways within the Village.

10.19.04 DEFINITIONS

Operator is defined as a person who operates an all-terrain vehicle or utility terrain vehicle, who is responsible for the operation of an all-terrain vehicle or utility terrain vehicle, or who is supervising the operation of an all-terrain vehicle or utility terrain vehicle.

All-terrain Vehicle (ATV) is defined as a commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of 50 inches or less, is equipped with a seat designed to be straddled by the operator, and travels on 3 or more low-pressure tires or non-pneumatic tires.

Utility Terrain Vehicle (UTV) is defined to mean any of the following:

1. A commercially designed and manufactured motor driven device that does not meet motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has and was originally manufactured with all of the following:
 - A weight, without fluids of 2,000 pounds or less
 - Four or more low-pressure tires or non-pneumatic tires
 - A steering wheel
 - A tail light
 - A brake light
 - Two headlights
 - A width of not more than 65 inches
 - A system of seat belts, or a similar system for restraining each occupant of the device in the event of an accident
 - A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.
2. A commercially designed and Manufactured motor driven device to which all of the following applies:
 - It has a weight, without fluids, of more than 900 Pounds but not more than 2000 pounds
 - It has a width of 50 inches or less
 - It is equipped with a seat designed to be straddled by the operator
 - It travels on 3 or more low-pressure tires or no-pneumatic tires

10.19.05 CONDITIONS. The following Conditions for the use of Village streets apply to all operators and passengers:

1. All ATV and UTV operators will observe posted speed limits; not to exceed 35MPH

2. All ATV and UTV units shall be registered for public use in accordance with Wisconsin Department of Natural Resources ("DNR") regulations, and proof of registration shall be displayed as required by statute during all times of operation.
3. No person under 18 years of age may operate or be a passenger on an ATV or UTV without wearing protective headgear of the type required under Wisconsin Statute §347.485(1)(a) and with the chin strap properly fastened, except as specifically exempted under §23.33(b)(c)(d) of Wisconsin State statutes.
4. ATV and UTV use is prohibited in the Village between the hours of 11 pm and 6 am unless the unit is licensed for agricultural use.
5. No person shall operate an ATV or UTV on any trail or route where the vehicle does not meet state or municipal noise and exhaust restriction requirements of 96 dB or per state statute of maximum noise level allowed.
6. No person shall operate an ATV or UTV unless the operator is 16 years of age or older and holds a valid driver's license issued by the Wisconsin Department of Transportation, or another state driver's licensing authority.
7. Operation of ATVs and UTVs on roadways designated as ATV and UTV routes are authorized only for the extreme right side of the roadway, on the paved surface (if the roadway is paved), except that left turns may be made from any part of the roadway that is safe given prevailing conditions.
8. No person shall operate an ATV or UTV within any municipal park or on any sidewalk, designated bicycle or pedestrian lane, gravel shoulder, ditch or other area of any street right-of way other than on the paved roadway, unless specifically designated and posted otherwise by the Village or its designee. Parking lots designed for normal traffic for parks, playgrounds or other municipal utilities are allowable for UTV/ATV traffic, as long as the machine does not leave the paved or gravel surface.
9. ATV and UTV traffic is strictly prohibited on any and all school grounds unless prior approval is received from the District Administrator.
10. All ATV and UTV operators will ride single file.
11. The operator of an ATV or UTV shall obey all traffic laws, local ordinances and DNR Regulations.
12. The operator of an ATV or UTV will display a lighted headlamp and tail lamps on the ATV or UTV and display the registration or license plate at all times.
13. ATV and UTV operation is at the risk of the operator. The Village of Lomira has no liability for any damage or injury to persons, real property or personal property, arising out of the operation of ATVs and UTVs on designated routes.
14. No person shall operate an ATV or UTV within the Village unless the owner or operator has in effect at the time a liability policy insuring operation of the ATV or UTV which policy meets the carrier and coverage requirements specified in Section 344.61 of the Wisconsin Statutes. No person shall operate an ATV or UTV without having proof of such liability insurance coverage readily available.

10.19.06 ENFORCEMENT. This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin, and under provisions of §23.33 (12)

10.19.07 PENALTIES. The penalties found in §23.33(13) (a) Wis. Stats., are adopted herein by reference.

The penalty for operation of an ATV or UTV in violation of any provision of this Ordinance for which a penalty is not otherwise specified shall be a forfeiture of \$30 (thirty dollars) plus the costs and fees imposed under Ch. 814, Wis. Stats.

10.19.08 SEVERABILITY. If any section, clause, provision, or portion of this ordinance or any underlying statute or administrative code section adopted by reference herein is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

10.19.09 EFFECTIVE DATE. This ordinance becomes effective upon passage and publication.

Chapter 11

SNOWMOBILES

11.01	Authority
11.02	Purpose and Intent
11.03	Wisconsin Statutes Adopted
11.04	Definitions
11.05	Requirements and Restrictions
11.06	Specified State Statutes Adopted
11.07	Snowmobiles Access
11.08	Highway Speed Limits
11.09	Availability of Access Routes
11.12	Enforcement
11.13	Penalties
11.15	Effective Date

- 11.01 AUTHORITY. This chapter is enacted by the Village Board under authority granted by §§350.11(a) and 350.18(3)(a), Wis. Stats.
- 11.02 PURPOSE AND INTENT. This chapter is adopted to promote the safe and orderly operation of snowmobiles within the Village of Lomira, County of Dodge, Wisconsin and to further provide for regulations allowing snowmobilers to travel between a residence or a lodging establishment along roadways and/or shoulders of highways to the closest snowmobile route or trail.
- 11.03 WISCONSIN STATUTES ADOPTED. Except as otherwise specifically provided in this chapter, the statutory provision describing and defining regulations with respect to snowmobiles in subs. (1) and (2), with the enumerated sections of the Wisconsin State Statutes following, are hereby adopted and by reference made a part hereof with the same force and effect as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this chapter.
- 11.03(1) APPLICABILITY: RULES OF THE ROAD. In accordance with §346.02(10), Wis. Stats., the operator of a snowmobile upon a roadway in addition to the provisions of ch. 350, Wis. Stats., be subject to §§346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1), and 346.94(1) and (9), Wis. Stats.
- 11.03(2) APPLICABILITY: SNOWMOBILES. The operator of a snowmobile shall in addition to the provisions of sub. (1) be subject to the following provisions of Ch. 350, Wis. Stats.
- 350.01 Definitions
- 350.02 Operation of snowmobiles on or in the vicinity of a highway
- 350.03 Right of way
- 350.04 Snowmobile races, derbies and routes
- 350.045 Public utility exemptions
- 350.05 Operation by youthful program established

350.055 Safety certification program established
 350.07 Driving animals
 350.08 Owner permitting operation
 350.09 Head lamps, tail lights and brakes
 350.10 Miscellaneous provisions for snowmobile operation
 350.101 Intoxicated snowmobiling
 350.102 Preliminary breath screening test
 350.1025 Application of intoxicated snowmobiling law
 350.103 Implied consent
 350.104 Chemical tests
 350.106 Report arrest to department
 350.107 Officer's action after arrest for operating a snowmobile
 350.12 Registration of snowmobiles
 350.13 Uniform trail signs and standards
 350.135 Interference with uniform trail signs and standards prohibited
 350.15 Accidents and accident reports
 350.17 Enforcement
 350.19 Liability of landowners; (re. fr. §10.08.010, Ord 211, 1994, as amended by codification 1998)

- 11.04 DEFINITIONS. As used in this chapter: (1) “Headlamp” has the meaning designated in §340.01(21), Wis. Stats.
- 11.04(2) “Headlamp barrier” means a fence, natural growth, difference in elevation or other means of restricting the view that users of an adjacent roadway have of headlamps on a snowmobile trail.
- 11.04(3) “Highway” means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of public schools, as defined in §115.01(1), Wis. Stats., and institutions under the jurisdiction of the county board of supervisors, but does not include private roads or driveways as defined in sub. (9).
- 11.04(4) “Hours of darkness” has the meaning designated in §340.01(23), Wis. Stats.
- 11.04(5) “Intoxicated snowmobiling law” means §350.101(1), Wis. Stats., or a local ordinance in conformity therewith, §350.101(2), Wis. Stats., or, if the operation of a snowmobile is involved, §§940.09 or 940.25, Wis. Stats.
- 11.04(6) “Law enforcement officer” has the meaning specified under §165.85(2)(c), Wis. Stats., and includes a person appointed as a conservation warden by the department under §23.10(1), Wis. Stats.
- 11.04(7) “Lodging establishment” means any of the following: (a) A bed and breakfast establishment, as defined in §254.61(1), Wis. Stats.
- 11.04(7)(b) A hotel, as defined in §254.61(3), Wis. Stats.
- 11.04(7)(c) A tourist rooming house, as defined in §254.61(6), Wis. Stats.

- 11.04(8) “Operate” means the exercise of physical control over the speed or direction of a snowmobile or the physical manipulation or activation of any of the controls of a snowmobile necessary to put it in motion. “Operate” includes the operation of a snowmobile.
- 11.04(8m) “Operator” means a person who operates a snowmobile, who is responsible for the operation of a snowmobile or who is supervising the operation of a snowmobile.
- 11.04(9) “Private road or driveway” is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner and every road or driveway upon the grounds of public institutions other than public schools, as defined in §115.01(1), Wis. Stats., and institutions under the jurisdiction of the county board of supervisors.
- 11.04(10g) “Purpose of access from lodging” means for the purpose of traveling for the shortest distance that is necessary for a person operating the snowmobile to go between a lodging establishment and the snowmobile route or snowmobile trail that is closest to the lodging establishment.
- 11.04(10m) “Purpose of residential access” means for the purpose of traveling for the shortest distance that is necessary for a person operating the snowmobile to go between a residence and the snowmobile route or snowmobile trail that is closest to that residence.
- 11.04(11) “Roadway” means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term “roadway” refers to each roadway separately but not to all such roadways collectively.
- 11.04(12) “Snowmobile” has the meaning designated in §340.10(58a), Wis. Stats.
- 11.04(13g) “Snowmobile route” means a highway or sidewalk designated for use by snowmobile operators by the governmental agency having jurisdiction as authorized under this chapter.
- 11.04(13m) “Snowmobile trail” means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by snowmobile operators by the governmental agency having jurisdiction, but excluding highways except those highways on which the roadway is not normally maintained for other vehicular traffic by the removal of snow.
- 11.04(14) “State trunk highway” has the meaning designated in §340.01(60), Wis. Stats.
- 11.04(15) “Street” means every highway within the corporate limits of the Village except alleys.
- 11.04(16) “Tail lamp” has the meaning designated in §340.01(66), Wis. Stats.
- 11.05 REQUIREMENTS AND RESTRICTIONS. (1) PROHIBITED ON PUBLIC PROPERTY. Except as provided in §§350.02 and 350.045, Wis. Stats., or for snowmobile events authorized in accordance with §350.04 Wis. Stats., no person shall operate a snowmobile unless expressly authorized upon any public right of way, or on any other public property in the Village of Lomira except upon the snowmobile route(s) designated in sub. (2).

- 11.05(2) DESIGNATED SNOWMOBILE ROUTE(S). The following shall be designated snowmobile route(s): Richard Street from County Trunk Highway HH on the north to Maple Street on the south.
- 11.05(2m) The use of this route shall be specifically limited to ingress and egress to and from the Village to access designated snowmobile trails. Said ingress and egress from either route above designated is specifically governed by the enumerated restrictions in §350.04(2)(c), Wis. Stats. (rn. fr. §10.08.020, Ord. 211, 1/19/94)
- 11.05(3) TEMPORARY ROUTES. The Village Board, from time to time, may designate, by resolution or amendment hereto, certain roads as temporary snowmobile routes and such routes shall be abandoned as soon as said routes are of such condition as to be unsuitable for snowmobile traffic or on a date as the Village Board may establish.
- 11.05(4) VILLAGE REGULATIONS ESTABLISHED. (a) Speed Limit. All snowmobiles traveling on designated Village roads shall travel single file, on the extreme right side of the road, at a speed not to exceed 10 mph or the posted speed limit of the road, whichever is lower.
- 11.05(4)(b) Valid Driver's License. Only operators holding a valid state driver's license shall use Village streets as routes under this chapter.
- 11.05(4)(c) Unattended Snowmobiles. No person shall leave or allow a snowmobile to remain unattended on any public highway or public property while the snowmobile motor is running or while the snowmobile has the starter key in the ignition. (rn. fr. Ord. 211, 1/19/94)
- 11.06 SPECIFIED STATE STATUTES ADOPTED. State Snowmobile Laws relating to the operation of snowmobiles on highways for the purpose of certain types of access contained in §§350.091(9m), 350.01(10d), and 350.01(10m), Wis. Stats., and any amendments thereto are hereby adopted by reference and are made a part hereof with the same force and effect as if fully set forth herein. "Residence" in this chapter shall be defined as follows: "The place where one resides."
- 11.07 SNOWMOBILE ACCESS. The following are designated as "access from lodging snowmobile routes" or as "residential access snowmobile routes" in accordance with authority granted by §350.18(3)(a), Wis. Stats.:
- 11.07(1) DESIGNATIONS. All roadways and/or highways in the Village are designated as residential/lodging snowmobile access routes except the roadways designated as "snowmobile routes" by the Village of Lomira under §11.03, of this code.
- 11.07(2) CONDITIONS. Under this subsection the Village Board may designate the roadways and/or shoulders of specific highways for snowmobile travel by persons residing in or staying at a lodging establishment within the limits of the village to travel for the shortest distance that is necessary to reach the snowmobile trail or route that is closest to that residence or lodging establishment subject to the following conditions:
- 11.07(2)(a) Snowmobiles shall be operated on the extreme right side of the roadway and travel with the flow of traffic.
- 11.07(2)(b) Snowmobiles are to be operated in single file.

11.07(2)(c) Headlights should be on at all times.

11.07(2)(d) Snowmobile operators shall yield the right-of-way to other vehicular traffic and pedestrians.

11.07(2)(e) Snowmobile operation is not permitted on state trunk highways or connecting highways except as provided under §350.02, Wis. Stats.

11.07(2)(f) No person shall drive or pursue any animal with a snowmobile, except as part of a normal farming operation involving the driving of livestock.

- 11.08 HIGHWAY SPEED LIMITS. All snowmobiles operated on a portion of the roadway or shoulder of a highway within the Village shall travel single file, on the extreme right side of the road, at a speed not to exceed 10 mph.
- 11.09 AVAILABILITY OF ACCESS ROUTES. Snowmobile access routes shall be effective from December 1, through March 31. Operation of snowmobiles on snowmobile access routes between April 1 and November 30 is prohibited.
- 11.12 ENFORCEMENT. (1) ENFORCEMENT PROCEDURE. This chapter shall be enforced according to §66.12, Chapter 300 and §§345.20 to 345.53, Wis. Stats.
- 11.12(2) VILLAGE ENFORCEMENT AUTHORITY ESTABLISHED. This chapter shall be enforced by the law enforcement officer/s of the Village of Lomira, County of Dodge, Wisconsin. For the purpose of enforcement of this chapter, any law enforcement officer reserves the privilege of stopping any snowmobile being operated on any road in the Village of Lomira to determine if it is being operated legally under the terms specified.
- 11.12(3) CITATION: HIGHWAY USE VIOLATIONS. Except as otherwise specifically provided for herein, in accordance with the requirement of §345.11(1m), Wis. Stats., the citation form specified in §23.54, Wis. Stats., and as is authorized under §345.11, Wis. Stats., shall be used for violations of this chapter relating to highway use.
- 11.12(4) CITATION: PARKING VIOLATIONS. The special traffic citation described and defined in, in accordance with State Statutes, shall be used for enforcement of violations of rules of the road relating to parking of vehicles as adopted by reference in §11.03 of this chapter.
- 11.12(5) ALL OTHER VIOLATIONS. All violations of this chapter not described in subs. (1) or (2) shall be enforced in accordance with §§66.114 and 66.12, Wis. Stats. Stipulations of guilt or no contest may be made as provided in §66.12(1)(b) Wis. Stats., in substantially the form provided in the uniform traffic citation within 5 days of the date of the citation, for such violation. Bail deposits shall also be made under §66.12(1)(a), Wis. Stats.
- 11.12(6) DEPOSIT. Any person arrested for a violation of this chapter may make a deposit of money as directed by the arresting officer at the police station or at the office of the Clerk of Circuit Court for Dodge County or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall comply with §345.26, Wis. Stats., or, if the deposit is mailed, the signed statement required under §345.26, Wis. Stats., shall be mailed with the deposit. The arresting officer or the persons receiving the deposit shall notify the arrested person, orally or in writing that:

11.12(6)(a) If the arrested person fails to appear in court at the time fixed in the citation, said person will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit; or

11.12(6)(b) If the arrested person fails to appear in court at the time fixed in the citation, and if the court does not accept the deposit as a forfeiture, said person will be summoned into court to answer the complaint. The amount of the deposit shall be determined in accordance with the “Revised Uniform State Bond Schedule” as established by the Wisconsin Judicial Conference. The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by §345.26(3)(b), Wis. Stats.

11.12(6)(c) If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted under this Section.

11.12(7) **STIPULATION OF NO CONTEST.** Any person charged with a violation of this chapter except §§346.62(1) and 346.63(1), Wis. Stats., may at the time of the alleged violation or within 5 days thereafter make a stipulation of no contest pursuant to §345.27, Wis. Stats. Such person shall at the time of entering into the stipulation make the deposit as required under Subs. (5). A person who has mailed or filed a stipulation under this subsection may, however, appear in court on the appearance date.

11.13 **PENALTIES.** Wisconsin State Snowmobile penalties as found in §350.11, Wis. Stats., are hereby adopted and by reference made a part of this chapter with the same force and effect as if fully set forth herein.

11.15 **EFFECTIVE DATE.** This chapter shall become effective upon passage and publication. (Dr. by Ord. 211 January 19, 1994, am. By recodification 1999)

Chapter 12

STREETS, SIDEWALK AND PUBLIC PLACES

12.01	Purpose and Intent
12.04	Street Construction
12.08	Depositing Material on Streets Prohibited
12.12	Sidewalk Construction
12.16	Sidewalk Maintenance
12.20	Free Standing U.S. Mail Boxes Permitted
12.21	Free Standing Newspaper Receptacles Prohibited
12.23	Utility Pole Maintenance
12.24	House Numbering
12.28	Trees
12.32	Park Facilities

12.01 PURPOSE AND INTENT. The purpose of this chapter is to provide minimum standards and regulations for the construction, repair and maintenance of streets, roads, highways, sidewalks and other enumerated public places within the Village that promote the public safety, convenience, and general welfare; protect the public investment in highways by preventing premature functional obsolescence; reduce highway accidents caused by frequent, confusing and/or poorly designed points of access; set minimum standards for new roads over which emergency vehicles may be required to travel; set minimum standards for new roads being accepted into the Village road system; and, set minimum standards for recognized access roads serving newly created lots. See also §§17.53, 17.54 and 17.57 this code. (recr. fr. §12.04.020)

12.04 STREET CONSTRUCTION. (1) SURFACING MATERIALS SPECIFIED. From and after the date of the enactment of this chapter all streets within the Village which are to receive a hard surface shall be surfaced only with hot mix asphalt or concrete. The particular material to be used in regard to each street is subject to the approval of the Village Board. (Ord. 84 §1, 1961 and recr. fr. §12.04.010)

12.04(2) STREET IMPROVEMENTS: METHOD OF PAYMENT. The method of payment for new street improvements in the Village, including excavating, grading, filling and paving, and sewer and water main extensions, hydrants, sewer and water laterals to the terrace (which is between the sidewalk and curb line) storm sewers and catch basins, including all manholes, lift stations and other facilities required, also including all engineering and survey fees, curb and gutter and sidewalk, is as follows:

12.04(2)(a) One hundred (100%) shall be paid by the property owner or sub divider.

12.04(2)(b) All payments on the installations designated in this subsection, if done through the Village, must be paid each month as the project progresses. The landowner or sub divider shall furnish a bond in the amount of the total project cost to the Village before construction shall have been started. Estimate(s) shall be made by the Village engineer.

12.04(2)(c) As a complete alternative par. (a) and (b), the Village Board is hereby authorized and empowered to order the costs of those installations herein designated to be paid for from the Village General Fund, if the Board deems such action would encourage and promote the economic development of the Village. This method of payment may only be used under the following circumstances:

12.04(2)(c)1. It can be reasonably expected that the increase in the Village's tax base created by the new development will result in the recovery of funds expended for the public improvements within fifteen (15) years.

12.04(2)(c)2. The proposed development is what would commonly be classified as a commercial or industrial development. (recr. fr. §12.04.030)

12.04(3) STREET IMPROVEMENTS: PROCEDURAL REQUIREMENTS. All of the installations designated in sub. (2) shall be made in accordance with the requirements established by the Village Board and its engineer.

12.04(3)(a) All streets must be brought to three inches of finished grade. Subbase of street(s) shall have at least six inches of two inches or larger crushed stone and six inches of three-fourth inches crushed gravel. All piping must be laid in a sand or stone bed. Installation of sidewalks may be delayed, but shall be installed as ordered by the Village Board.

12.04(3)(b) Water and sewer connection charge(s) shall be a total of one hundred dollars (\$100) for each improved lot and must be paid before services will be given. (recr. fr. §12.04.040)

12.04(4) PERMIT REQUIRED. No person, firm or corporation shall in any way improve, alter, repair, or in any way tamper with any of the areas within the Village located within the right-of-way of any Village street or any Village property without first obtaining a permit from the Village, section §12.04.060. (recr. fr. §12.04.050)

12.04(5) PERMIT: APPLICATION, ISSUANCE AND FEE. (a) Application. Any person firm, or corporation desiring to alter, repair, or improve within the area commonly referred to as the street right-of-way, which area includes all street sidewalks, shall make application to the Village Clerk-Treasurer for a permit to perform such work on applications to be provided by the Village Clerk-Treasurer. This requirement applies to all repairs and improvements to sidewalks and utility facilities and equipment on or beneath public lands in the Village, or street or utility construction shall be referred to the Village Board for review and approval.

12.04(5)(b) Issuance. The Village Board shall issue such permit only after it is satisfied that the project is in the best interest of the Village. Applications for minor repairs and alterations shall be issued by the Director of Public Works after it has been established that the project will not endanger public facilities, or cause undue inconvenience to the general public.

12.04(5)(c) Fee(s). A fee of \$5 shall accompany the permit application. Said permit shall be posted in a prominent place at the work site prior to and during the period of alteration, repair, improvement or other work. (recr. fr. 12.04.060)

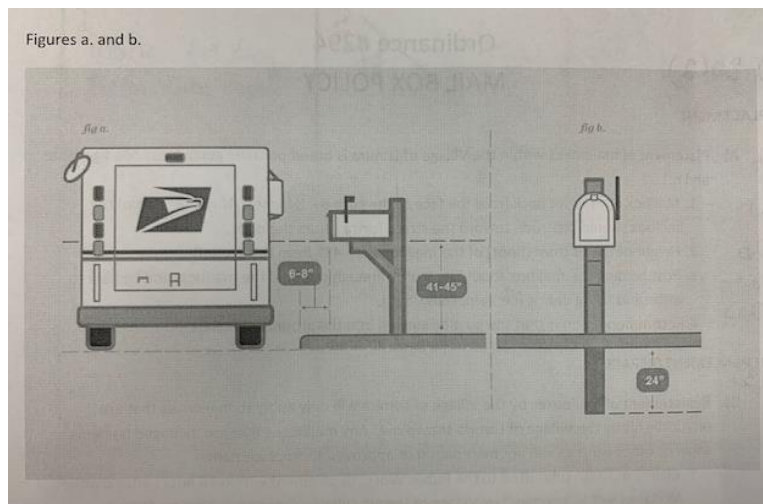
- 12.04(6) VIOLATIONS AND PENALTY. Any person, firm, or corporation who himself or itself or by his or its agents or employees, violates any of the provisions of §§12.04(4) and (5), shall upon conviction thereof be subject to the provisions set forth in Ch. 25 of this Code. (recr. fr. §12.04.070)
- 12.08 DEPOSITING MATERIAL ON STREETS PROHIBITED. No person shall pile, deposit or place, or permit to be piled, deposited or placed, any material or obstructions of any kind, including snow or ice, upon or over any street or sidewalk, or to obstruct any street or sidewalk so as to interfere with the convenient use of the same by the public. No person shall push, blow or otherwise move any snow or ice out of a private driveway into or across any public street. Conviction of a violation of the provisions of this section subjects the offender to the penalty provisions as set forth in Ch. 25 of this Code. See also §8.14 of this Code.
- 12.12 SIDEWALK CONSTRUCTION. (1) AUTHORITY OF VILLAGE BOARD. The Village Board is hereby authorized and empowered to order the installation of street sidewalks where no such sidewalks exist, and to order the repair or replacement, at the Board's discretion, of existing street sidewalks as deemed to be in the public's interest. The procedure for ordering installation, repair or replacement of street sidewalks shall be in accordance with §66.0701, Wis. Stats. (Recr. fr. §12.12.010, 1994)
- 12.12(2) WIDTH SPECIFICATIONS. The width of any new or replaced street sidewalk shall be determined as follows: (a) Streets with a right-of-way 55 feet or greater in width shall have street sidewalks of 5 feet in width. (Ord. 69+ (part), 1955; Ord. 10, sec 1, 1909).
- 12.12(2)(b) Streets with a right-of-way less than 55 feet in width shall have street sidewalks of 4 feet in width.
- 12.12(2)(c) In the case of replacement of an existing street sidewalk where application of the specifications in par. (a) and (b) would result in the installation of a new sidewalk with a different width than abutting sidewalk which is not being replaced, the Village Board, or the Director of Public Works is hereby authorized to order the installation of sidewalk with a width the same as the abutting sidewalks. In no case shall a street sidewalk less than four feet wide be installed. (recr. fr. §12.12.020, 1994)
- 12.12(3) MATERIALS. All sidewalks which are hereafter built or rebuilt shall be built of concrete. (Ord. 10, sec 2, 1909; recr. fr. §12.12.030, 1994)
- 12.12(4) COMPENSATION TO PROPERTY OWNERS. For any sidewalk that is built or rebuilt by any property owner along his property line at least four inches thick, the Village shall pay twenty cents per square foot toward same out of the general fund. (Ord. 69 (part), 1955; Ord. 13, sec. 1, 1913; Amended Ord. 174, 1985; Recr. fr. §12.12.040, 1994)
- 12.16 SIDEWALK MAINTENANCE. (1) DUTY ASSIGNED AND FAILURE TO PERFORM. (a) It shall be the duty of every owner, occupant, agent or person in charge of any premises, improved or vacant, within this Village that abuts upon any sidewalk to keep the same free from rubbish, dirt, or filth of any kind, including snow and ice. It shall be illegal to blow or deposit any of these items, including grass clippings and leaves, on any Village street.
- 12.16(1)(b) SIDEWALK MAINTENANCE. Any owner, occupant or agent, or person in charge of any premises, improved or vacant, who neglects for the period of twenty-four hours after any rubbish, dirt, filth of any kind or snow or ice has been deposited, or

formed upon the sidewalk upon which such premises abuts, to remove the same shall forfeit a penalty of not less than \$25 nor more than \$100 for each and every period of twenty-four hours during which neglect may continue. This is considered to be the base bond amount not to include court costs. The sidewalk shall be cleared of the entire width of the sidewalk. The Village Board reserves the right to excuse any person or persons from cleaning their sidewalks of snow where they deem it unnecessary. (Ord. 4 §27, 1899 and §12.16, 1985)

12.16(2) **VILLAGE ACTION.** It is the duty of the street commissioner of this Village to keep the sidewalks in the Village clear of snow and ice in all cases where the owner or occupant of lots or parcels of land abutting upon such sidewalks where snow or ice may have been deposited or formed or fallen, fails to keep such sidewalk clear of snow and ice as required in sub. (1). The expense of cleaning the snow and ice from the sidewalk, in front (and along the side of a corner lot or parcel of land) of any such lot or parcel of land shall be paid by the property owner. The street commissioner shall keep an account of such expenses and make a report of the same to the Village Clerk/Treasurer, who shall send a bill to the property owner charging for said services. If not paid within thirty days, the Clerk/Treasurer shall enter the account therein charged to each lot or parcel of land in the next subsequent tax roll as a special tax against said lot or parcel of land. (Ord. 4 §28, 1899; and §12.16.20)

12.20 **FREE STANDING U.S. MAIL BOXES PERMITTED.** (1) U.S. Mail Boxes shall be placed on the side of the street designated by U.S. Postal authorities. It may be placed in the terrace, but the mail box shall not extend past the terrace side of the curb.

12.20(2) **PLACEMENT.** Placement of mailboxes within the Village of Lomira is based on USPS guidelines. See figures a. and b.



12.20(2)(a) Mailbox door is set back from the face of the curb 6—8 inches. No other part of the mailbox should protrude toward the street further than the door.

12.20(2)(b) Height of the bottom (floor) of the mailbox is 41—45” from the ground.

12.20(2)(c) Post holding the mailbox should be sturdy enough to hold the mailbox, and be able to withstand flying debris (i.e. rain, snow, etc.)

12.20(2)(d) Recommendation is that the post be sunken into the ground 24 inches.

- 12.20(3) **REPLACEMENT/REPAIR.** Replacement of mailboxes by the Village of Lomira will only apply to mailboxes that are physically hit by the Village of Lomira snowplow. Any mailboxes that are damaged by flying snow or other vehicles will not be repaired or approved for replacement.
- 12.20(3)(a) Claims must be submitted to the Public Works department within 36 hours after damage. All claims will be reviewed by Village of Lomira DPW to determine if the mailbox is repairable or in need of replacement.
- 12.20(3)(b) Only correctly installed mailboxes will be repaired or replaced.
- 12.20(3)(c) All mailboxes that are able to be repaired to working condition will not be replaced. Scratches, dents etc., that do not affect the mailbox from working properly does not constitute a need for replacement. Village of Lomira DPW will fix the damage to the best of their ability and the claim will not be approved for replacement.
- 12.20(3)(d) All residents whose claims are approved for replacement have two options:
- 12.20(3)(d)1. Upon request, Village of Lomira DPW will install a replacement mailbox. If Village crews are replacing the mailbox, the Village of Lomira will provide the replacement mailbox and materials, therefore, no reimbursement of materials or mailbox will be given to home owner. A standard black mailbox and 4x4 posts will be used to replace all mailboxes the Village installs.
- 12.20(3)(d)2. For residents who choose to replace and install their own mailbox, the Village will provide reimbursement up to \$50 per mailbox damaged by Village of Lomira DPW. Reimbursement is limited to material cost only.
- 12.20(3)(e) Residents who choose to purchase and install their own mailboxes must complete installation and turn in the receipt and damaged mailbox to the Lomira DPW BEFORE May 1st (immediately following the winter season in which the damage occurred.) All reimbursement approvals are void after this date and will not be reimbursed.
- 12.20(3)(f) New mailboxes installed by the Resident must be installed in accordance with Village and Postal Service standards (see Placement section of ordinance)
- 12.21 **FREE STANDING NEWSPAPER RECEPTACLES PROHIBITED** Free standing receptacles for non-U.S. Postal items, newspapers, magazines, etc. are prohibited in the Village of Lomira.
- 12.23 **UTILITY POLE MAINTENANCE AND REPAIRS.** All utility poles of any material, both public and private, within the Village of Lomira are required to be maintained and free of hazardous defect to ensure public safety.
- 12.23(1) **NOTIFICATION OF UNMAINTAINED UTILITY POLE.** The Village of Lomira Director of Public works or Police Department will notify property owner and/or utility pole owner of unsafe conditions. Notification will be served via phone call, certified mail or email with return receipt requested.

- 12.23(2) **ORDERS OF MAINTENANCE.** The Director of Public Works or Police Department will provide the property owner and/or utility pole owner one of the two following orders to repair the utility pole:
- 12.23(2)(a) Order One. Immediate response required. The party being notified must respond to the Director of Public Works or Police Department within 30 minutes of notification and respond with proper equipment to repair the utility pole within 4 hours of notification.
- 12.23(2)(b) Order Two. Response required. The party being notified must respond to the Director of Public Works or Police Department within 72 hours with a complete plan to repair or replace utility pole. A complete report will provide a repair action plan and completion date. Poles installed in a NEW location require a Village right-of-way permit.
- 12.23(3) **NOTIFICATION OF COMPLETION.** The Director of Public Works or Police Department will supply written confirmation the utility pole has been repaired and is no longer deemed unsafe.
- 12.23(4) **FAILURE TO COMPLY.** Failure of the notified party to comply with Village Ordinance 12.23(2) will incur fines up to \$1000 per day, per issue until utility pole is repaired and no longer deemed as unsafe by the Director of Public Works and/or Police Department.
- 12.24 **HOUSE NUMBERING.** (1) **SYSTEM ESTABLISHED.** There is established a uniform system of numbering houses and buildings fronting on all streets, avenues, and public ways in the Village, and all houses and buildings shall be numbered in accordance with the provisions of this chapter. (Ord. 90 §1, 1963)
- 12.24(2) **BASE LINES ESTABLISHED.** The south Village limits constitutes the base line for numbering along all streets running north and south, and the east Village limits constitutes the base line for numbering all streets running east and west. (Ord. 90 §2, 1963)
- 12.24(3) **PROCEDURE.** The numbering for each street shall begin at the base line. The numbers in the first block shall be from 100 to 199, the second block 200 to 299, the third block 300 to 399, etc. There shall be assigned one hundred numbers to each block, square or space that would be one block or square, if streets each way were so extended as to intersect each other, and one number shall be assigned to each twenty feet of frontage. In blocks or equivalent space longer than 1,250 feet which is not intersected by a street, the total length of space divided by fifty shall be used to determine the feet of frontage to be assigned each number. (Ord. 90 §3, 1963 and recr. fr. §12.24.030)
- 12.24(4) **SPECIAL CONDITIONS SPECIFIED.** All lots and houses on the south and west side of all streets shall be numbered with odd numbers, and all lots and houses on the north and east side of all streets shall be numbered with even numbers, each commencing with the hundred assigned to that block, and increasing from the base line, one number for each twenty feet of frontage or fraction thereof, except as provided in sub. (3). Where any building has more than one door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant; providing that building is twenty feet or more in width. If the building is not twenty feet or more in width, and the entrances are not that far apart, the next consecutive number shall be marked fractional. Buildings fronting on two or more streets shall have a number on the main entrance, unless other entrances serve other occupants. (Ord. 90 §4, 1963 and §12.24.040)

- 12.24(5) **STREETS NOT EXTENDING TO BASE LINE.** All streets not extending through to the base line shall be assigned the same relative numbers as if the street had extended to the base line. (Ord. 90 §5, 1963, §12.24.050)
- 12.24(6) **ASSIGNMENT AND PLACEMENT COST ABSORBED BY VILLAGE.** (a) The Village has caused a survey to be made and there is assigned to each house and building located on any street, alley, highway or avenue in the Village its respective number under the uniform system provided for in this Section, as shown on the map attached to, and made a part of the ordinance codified in this Section. Such map is on file in the office of the Village Clerk/Treasurer. Within thirty days after the effective date of this Section, the owner, occupant or agent, shall place or cause to be placed, upon each house or building controlled by such owner, occupant or agent, the number or numbers assigned under the uniform system provided for in this Section.
- 12.24(6)(b) The cost of each such number or numbers as is initially required hereunder shall be paid for by the Village.
- 12.24(6)(c) The numbers shall be conspicuously placed immediately above, on, or at the side of the proper door of each building so that the number can be plainly seen from the street. Whenever any building is situated more than seventy-five feet from the street line, the number of such building shall be conspicuously placed in an appropriate place so as to be easily discernible from the sidewalk. (Ord. 90 §6, 1963; and §12.24.060)
- 12.24(7) **USE OF LETTERING TO DISTINGUISH SEPARATE PORTIONS OF BUILDING.** Where only one number can be assigned to any house or building, the owner, occupant, or agent of such house or building who desires distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building fronting on any street, may use the suffix “A,” “B,” “C,” etc., as may be required. (Ord. 90 §7, 1963 and §12.24.070)
- 12.24(8) **MAP: OPEN TO INSPECTION.** For the purpose of facilitating correct numbering, a copy of the map which was originally made a part of the enabling action for this Section, showing the proper numbering of all houses fronting upon all streets, avenues, or highways, shall be kept on file in the office of the Village Clerk/Treasurer. This map shall be opened to inspection during the office hours of the Village Clerk/Treasurer. (Ord. 90 §8, 1963 and §12.24.080)
- 12.24(9) **ASSIGNMENT AND DUTY OF CLERK/TREASURER.** It shall be the duty of the Village Clerk/Treasurer to inform any party applying therefor of the number or numbers belonging to or encompassed within the limits of said lot or property as provided in this section. In case of doubt as to the proper number to be assigned to any lot or building, the Village Clerk/Treasurer shall determine the number of each lot or building. (Ord. 90 §9, 1963 and §12.24.090)
- 12.24(10) **DUTY OF OWNER DESIGNATED.** Whenever any house, building or structure is erected or located in the Village, it shall be the duty of the owner to procure the number so assigned upon the building as provided by this chapter. No building permit shall be issued for any house, building, or structure until the owner has procured from the Clerk/Treasurer the official number of the premises. (Ord. 90 §10, 1963 and §12.24.100)
- 12.24(11) **VIOLATIONS: REPORTING.** It shall be the duty of all officers of the Village to report the violation of any provisions of this section. (Ord. 90 §11, 1963 and §12.24.110)

- 12.24(12) VIOLATION AND PENALTY. (a) If the owner or occupant of any building required to be numbered by this Section neglects for more than thirty days to duly attach and maintain the proper number of such building, the Village Clerk/Treasurer shall cause to be served upon such person the notice requiring such owner or occupant to properly number the same.
- 12.24(12)(b) If, after 10 days of receiving said notice, such owner or occupant neglects to duly attach proper number(s), s/he shall be deemed to have violated this Section.
- 12.24(12)(c) A person convicted of violations under this section shall be subject to the penalty provisions contained in CH. 25 of this Code. (Amended during 1978 codification; Ord. 90 §12, 1963 and recr. fr. §12.24.120)
- 12.28 TREES. (1) INJURING TREES PROHIBITED. No person shall cut, break, tear, deface or otherwise injure any flowerbed, ornamental or shade tree, or shrub, or lamppost other than his own upon any sidewalk or any street, alley or public place within the limits of the Village. (Ord. 4 §17, 1899 and recr. fr. §12.28.010)
- 12.28(2) PLANTING BETWEEN CURB AND SIDEWALK: UNLAWFUL. It is unlawful for any person to plant any tree or bushes between the curbing and the sidewalk on any street within the Village limits. (Ord. 77 §1, 1960 and recr. fr. §12.28.020)
- 12.28(3) PLANTING BETWEEN CURB AND SIDEWALK: REMOVAL. The Village Board may summarily cause to be removed any tree or bushes planted in violation of Sub (2) at the expense of the person committing such violation. (Ord. 77 §2, 1960 and recr. fr. §12.28.030)
- 12.28(4) VIOLATION AND PENALTY. Any person violating the provisions of this Sec, upon conviction thereof, shall be subject to the penalty set forth in Ch. 25 of this Code. (Amended during 1978 codification; Ord. 77 §3, 1960 and recr. fr. §12.28.040)
- 12.32 PARK FACILITIES. (1) HOURS. (a) “Park Facilities” means all land owned and maintained by the Village that is within the border lines of land designated as parks on the official village map and all buildings and equipment thereon.
- 12.32(1)(b) Public use of any village park or village recreation property on any day shall be between the hours of 8:00 A.M. and 11:00 P.M.
- 12.32(2) EXCEPTIONS. (a) Sec 2.32(1) shall not apply to any recognized nonprofit organization that has requested use of the park facilities for a fundraising project of their choice, provided that any such use of the park facility shall cease at 1 A.M. when on Central Standard Time and at 2 A.M. when on Daylight Saving Time.
- 12.32(2)(b) Sec 12.32(1) also shall not apply to any individuals who are legally fishing in those waters which are located within the park areas specified herein. (Ord. 130 §1(b), 1978 and recr. fr. §12.32.020)
- 12.32(3) USE OF FACILITIES: PERMISSION REQUIRED. Permission for the use of the park facilities by organizations, company/employee gatherings and family reunions of 25 or more persons, must be obtained from the Clerk/Treasurer. Permission for use of the park facilities will be granted on a first come, first serve basis. (Ord. 130 §2(a), 1978 and recr. fr. §12.32.030)

- 12.32(4) USE: RESPONSIBILITY OF PERSONS. All persons receiving permission for use of park facilities will be responsible for maintaining the good conduct of all persons present, providing police supervision when needed, and cleaning up the area of the park used. (Ord. 130 §2(b), 1978 and recr. fr. §1232.040)
- 12.32(5) USE OF PARK EQUIPMENT. Park equipment shall only be used in the Village parks. It shall be unlawful for anyone to remove park equipment or property from any Village Park. (recr. fr. Ord. 225 §12.32.050, 1996)
- 12.32(6) ENFORCEMENT. Members of the police department and any such other persons as may be authorized by the Village Board are empowered to issue citations to any person or persons found to be in violation of the 11:00 P.M. curfew time. (Ord. 130 §4, 1978 and recr. fr. §12.32.060)
- 12.32(7) VIOLATION AND PENALTY. See Ch. 25 of this Code.

Chapter 13

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INTRODUCTION

- 13.01 TITLE AND AUTHORITY. (Renum. and recr. fr. Ord. 214 revised 8/23/94, eff. 9/25/94) (1) TITLE. This Chapter shall be known and cited as “The Village of Lomira Sewer and Water Ordinance” and may also be known as the “Sewer Use, Sewer Service Charge and Clean Water Ordinance.”
- 13.01(2) AUTHORITY. This chapter is adopted pursuant to authority granted under §§66.066(1)(a)(b)(c) and (1m), and 66.067, Wis. Stats. The sewer and water utilities of the Village shall be managed, controlled and operated by the Village of Lomira Board of Trustees, hereinafter referred to as the Village Board or the Approving Authority.
- 13.02 PUROPSE AND INTENT. This chapter is adopted to promote the health, safety, prosperity, aesthetics and general welfare of the people within the Village or people served by Village sewer service; to regulate the location, construction, installation, alteration, design and use of sewage disposal system and private water supply so as to protect the health of residents; to secure safety from disease and pestilence; to further the appropriate use and conservation of certain land and water resources and to preserve and promote the general beauty of the Village.
- 13.03 ABROGATION AND GREATER RESTRICTIONS. It is not the intent of this chapter to repeal, annul, abrogate, impair or otherwise interfere with any existing permits, agreements, rules, regulations, ordinances, covenants, or deed restrictions previously adopted or issued pursuant to the law. The provisions of this chapter shall govern wherever same imposes greater restrictions.
- 13.04 INTERPRETATION. The provisions of this chapter shall be interpreted and applied as minimum requirements, shall be construed in the favor of the Village and shall not be deemed a limitation or repeal of any power granted by Wisconsin State Statutes.
- 13.05 DEFINITIONS. (Renum. and recr. fr. Art. I (partial), Ord. 214, '94) Unless specifically defined elsewhere herein, words and phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this Chapter its most reasonable application.

- 13.05(1) ADMINISTRATIVE CODE, ADOPTED. The definitions provided in Wis. Adm. Code, Chs. NR 110, 114.03, 8.11.02, 812, 813 and COMM 82, 83 and 85, are hereby adopted by reference as if fully set forth herein.
- 13.05(2) APPROVING AUTHORITY shall mean the Village Board or its duly-authorized agent or representative(s).
- 13.05(3) BOD (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in 5 days at 20°C, expressed as milligrams per liter (mg/l). Quantitative determinations of BOD shall be made in accordance with procedures set forth in “Standard Methods”.
- 13.05(4) BUILDING DRAIN shall mean that part of the lowest horizontal piping of a drain system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.
- 13.05(5) BUILDING SEWER shall mean a sanitary sewer which begins immediately outside of the foundation wall of any building or structure being served, and ends at its connection to the public sewer.
- 13.05(6) CATEGORY A shall be those sanitary sewer users who discharge normal domestic strength wastewater with concentrations of Biochemical Oxygen Demand (BOD), Suspended Solids (SS), Ammonia-Nitrogen (NH₃-N) and Phosphorus (P) no greater than the concentrations identified in the current User Charge system.
- 13.05(7) CATEGORY B shall be those sanitary sewer users who discharge wastewater with concentrations in excess of domestic strength wastewater as identified in the current User Charge System. Users whose wastewater exceeds the concentrations for any one of these parameters shall be in “Category B”.
- 13.05(8) CHLORINE REQUIREMENT shall mean the amount of chlorine, in mg/l, which must be added to sewage to produce a chlorine residual as specified in the Wisconsin Pollutant Discharge Elimination System (WPDES) permit.
- 13.05(9) COMBINED SEWER shall mean a sewer intended to receive both wastewater and storm or surface water.
- 13.05(10) COMPATIBLE POLLUTANTS shall mean BOD, suspended solids, phosphorous, ammonia, nitrogen, TKN, pH or fecal coli form bacteria, plus additional pollutants identified in the Municipality’s WPDES permit for its wastewater treatment facility; provided that such facility is designed to treat such additional pollutants and, in fact, does remove such pollutants to a substantial degree.
- 13.05(11) COUNTY. County means the County of Dodge, Wisconsin
- 13.05(12) DWELLING. See §254.55(1), Wis. Stats.
- 13.05(13) EASEMENT shall mean an acquired legal right for the specified use of land owned by others.
- 13.05(14) ESTABLISHMENT. See §254.61(2), Wis. Stats.

- 13.05(15) FLOATBALE OIL is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
- 13.05(16) GARBAGE. See §§281.01(4) and 289.01(9), Wis. Stats.
- 13.05(17) GROUND GARBAGE shall mean the residue from the preparation, cooling, dispensing, handling, storage and sale of food products and produce that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 -inch in any dimension.
- 13.05(18) HOTEL. See §254.61(3), Wis. Stats.
- 13.05(19) INCOMPATIBLE POLLUTANTS shall mean wastewater with pollutants that will adversely affect the wastewater treatment facilities or disrupt the quality of wastewater treatment if discharged to the wastewater treatment facilities.
- 13.05(20) INDUSTRIAL WASTE shall mean any solid, liquid or gaseous substance discharged or escaping from any industrial, manufacturing or commercial establishment. Such term includes any wastewater which is not sanitary sewage. (See also §281.01(5), Wis. Stats)
- 13.05(21) MUNICIPALITY shall mean the Village of Lomira.
- 13.05(22) NATURAL OUTLET shall mean any outlet, including storm sewers and combined sewer overflows, into a water course, pond, ditch, lake or other body of surface water or ground water.
- 13.05(23) NITROGEN shall mean ammonia nitrogen, expressed in mg/l of NH_3N .
- 13.05(24) NORMAL DOMESTIC STRTENGTH WASTEWATER shall mean wastewater with concentrations of BOD no greater than 175 mg/l, suspended solids no greater than 185 mg/l, phosphorus no greater than 2.86 mg/l and NH_3N (ammonia nitrogen) no greater than 21.5 mg/l.
- 13.05(25) OPERATION & MAINTENANCE COSTS shall include all costs associated with the operation and maintenance of the wastewater treatment facilities, including administration and replacement costs, all as determined from time to time, by the Municipality.
- 13.05(26) OWNER. See §254.55(2), Wis. Stats.
- 13.05(27) PERSON shall mean any and all persons, including any individual, firm, company, municipality or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- 13.05(28) pH shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

- 13.05(29) PHOSPHORUS shall mean total phosphorus and is expressed in mg/l of P (phosphorus).
- 13.05(30) “PRIVATE SEWAGE SYSTEM” means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Wisconsin Department of Commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district. A “PRIVATE SEWAGE SYSTEM” is legal only with Lomira Village Board approval.
- 13.05(31) PUBLICLY OWNED TREATMENT WORKS (POTW). A treatment works including any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial waste. The Systems include sewers, pipes and equipment used to convey wastewater to the treatment facility. The term also includes the Municipality that owns and operates the facilities.
- 13..05(32) PUBLIC SEWER shall mean any publicly owned sewer, storm drain, sanitary sewer or combined sewer.
- 13.05(33) REPLACEMENT COSTS shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the wastewater treatment facility to maintain the capacity and performance for which such facilities were designed and constructed.
- 13.05(34) SANITARY SEWAGE shall mean combination of liquid and water carried wastes discharged from toilets and/or sanitary plumbing facilities.
- 13.05(35) SANITARY SEWER shall mean a sewer that carries sewage or wastewater.
- 13.05(36) SEWAGE is the spent water of a person or community. The preferred term is “wastewater.”
- 13.05(37) SEWER shall mean a pipe or conduit that carries wastewater or drainage water.
- 13.05(38) SEWER SERVICE CHARGE is a charge levied on users of the wastewater collection and treatment facilities for payment of operation and maintenance expenses, debt service costs and other expenses or obligations of said facilities.
- 13.05(39) SEWER SERVICE CHARGE SYSTEM shall have the same meaning as user charge system as referred to in Wis. Adm. Code Ch. NR. 162 of the Wis. Stats.
- 13.05(40) “SEWERAGE SYSTEM” means all facilities of the Village for collection, transportation, storage, pumping, treatment and final disposition of sewage. “Sewerage System” does not include any private sewage system, as defined in subs. 13.05(30) or any local sewer.
- 13.05(41) “SHALL” is mandatory; “MAY” is permissible.
- 13.05(42) SLUG shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24 hour concentration of flows during normal

operation and/or adversely affects the collection system and/or performance of the wastewater treatment facility.

- 13.05(43) STANDARD METHODS shall mean the examination and analytical procedures set forth in the most recent edition of “Standard Methods for the Examination of Water and Wastewater” published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- 13.05(44) STORM SEWER OR DRAIN shall mean a drain or sewer for conveying water, ground water, subsurface water or unpolluted water from any source.
- 13.05(45) SUSPENDED SOLIDS (SS) expressed in mg/l shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.
- 13.05(46) TKN (Total Kjeldahl Nitrogen) shall mean the sum of organic nitrogen and ammonia nitrogen.
- 13.05(47) UNPOLLUTED WATER is water quality equal to or better than the effluent of the wastewater treatment facilities or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities.
- 13.05(48) WASTEWATER shall mean the spent water of a community or person. From the stand point of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with any ground water, surface water and storm water that may be present.
- 13.05(49) WASTEWATER COLLECTION FACILITIES (or wastewater collection system) shall mean the structures and equipment required to collect and carry wastewater.
- 13.05(50) WASTEWATER TREATMENT FACILITY shall mean an arrangement of devices and structures for treating wastewater and sludge. Also referred to as wastewater treatment plant.
- 13.05(51) WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) PERMIT, is a document issued by the State of Wisconsin which establishes effluent limitation and monitoring requirements for the municipal wastewater treatment facility.
- 13.05(52) RESIDENTIAL EQUIVALENT UNIT. A residential equivalent unit is defined as any single family dwelling unit, be that unit a single family residence, an apartment or a condominium unit. A residential equivalent unit is equal to 233 gallons of water per day.
- 13.06 UTILITY SUPERINTENDENT. (1) APPOINTMENT AND DUTIES. The Village Board shall appoint a Utility Superintendent whose duties shall be to operate the physical properties of the utility, to read the meters and keep a record thereof, to keep a record of the operation of the utility such as is required by the Wisconsin DNR, Public Service Commission or by the Village and to perform such other duties as shall from time to time be required of him/her by resolution or by motion of the Village Board. Said operations shall be conducted by and be under the control and management of the President and the Board of Trustees. (Ord. 52 s2(A), 1940, renum. fr. §13.04.020)

- 13.06(2) **SALARY.** The Village Board shall fix the salary for the Utility Superintendent which shall be ordered and paid out of the Utility fund and may remove the Superintendent with or without cause at any time. (Ord. 52 s2(B), 1940, renum. fr. §13.04.030)
- 13.07 **UTILITY CLERK.** (1) **APPOINTMENT.** The Village Board shall appoint a Utility Clerk.
- 13.07(2) **DUTIES.** The Utility Clerk shall keep the books of the sewer and water utility, compute the bills and accounts, make collections of service charges for each of said utilities and to deposit the same at least once each month with the Village Clerk/Treasurer, which money shall be segregated and kept separately in the Utility Fund for each of the sewer and water utilities, and shall make a monthly report to the Village Board at its regular meeting, or at any other meeting by resolution designated therefore, of the receipts and disbursements of the utilities and shall meet with the Village Board on such regular or specially designated meetings.
- 13.07(3) **DISBURSEMENTS.** All disbursements for each of the utilities shall be, by order of the Board, made out of the Utility Fund for such utility. (Ord. 52 s3(A), 1940, renum. fr. §13.04.040)
- 13.08 **BONDS.** All bond guarantees under the provision of §§13.01, 13.06(1) and (2) and 13.07(3) this code, shall run to the Village and shall be conditioned upon the faithful performance of the duties of the person giving such bond and a proper accounting by such person for all moneys received by reason thereof and shall be provided by the Village and charged to the Utility Fund. (Ord. 52 s3(E), 1940, renum. fr. §13.04.050)
- 13.09 **EXTENSION OF MAINS WITHIN VILLAGE.** The Village Board shall have the authority to provide for and direct the installation of additional mains and laterals to the present sewer and water systems of the Village. (Ord. 64 s., 1950, renum. fr. §13.04.070)

USE OF THE PUBLIC SEWERS

- 13.10 **SANITARY SEWERS.** No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, ground water, roof run off, subsurface drainage, or cooling water to any sanitary sewer. (Renum. fr. Ord. 214 §201, 9/25/94)
- 13.11 **STORM SEWERS.** Storm water and all other unpolluted water shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Approving Authority and other regulatory agencies. Unpolluted industrial cooling water or process water may be discharged, on approval of the Approving Authority and other regulatory agencies, to a storm sewer, combined sewer or natural outlet. (Renum. fr. Ord. 214, §202, 9/25/94)
- 13.12 **PROHIBITIONS AND LIMIATIONS.** (renum. fr. Ord. 214, §203, 9/25/94) Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- 13.12(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- 13.12(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, that could injure or interfere with any waste treatment or sludge disposal process, constitute a hazard to humans or

animals, or creates a public nuisance in the receiving waters of the wastewater treatment facility.

- 13.12(3) Any waters or wastes having a pH lower than 5.0, or in excess of 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment facilities.
- 13.12(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in public sewers or other interference with the proper operation of the wastewater treatment facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- 13.12(5) The following described substances, materials, waters, or waste shall be limited in discharges to the sanitary sewer systems to concentrations or quantities which will not harm either the sanitary sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limbs, public property, or constitute a nuisance. The Approving Authority may set limitations more stringent than those established below if such more stringent limitations are necessary to meet the above objectives. The Approving Authority will give consideration to the quantity of subject waste in relation to flows and velocities in the sewers, materials or construction of the sanitary sewers, the wastewater treatment facility, and other pertinent factors. Wastes or wastewater discharged to the sanitary sewers shall not exceed the following limitations:
- 13.12(5)(a) Wastewater having a temperature higher than 150°F (65°C).
- 13.12(5)(b) Wastewater containing more than 25 mg/l of petroleum oil, non-biodegradable cutting oils or products of mineral oil origin.
- 13.12(5)(c) Wastewater from industrial plants containing floatable oils, fat or grease.
- 13.12(5)(d) Any underground garbage. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- 13.12(5)(e) Any waters or wastes containing iron, chromium, copper, zinc and other toxic and nonconventional pollutants to such degree that the concentration exceeds levels specified by federal, state and local authorities.
- 13.12(5)(f) Any waters or wastes containing odor producing substances exceeding limits which may be established by the Approving Authority or limits established by any federal or state statute, rule or regulation.
- 13.12(5)(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Approving Authority in compliance with applicable state or federal regulations.
- 13.12(5)(h) Any waters or wastes containing substances which are not amendable to treatment or reduction by the wastewater treatment processes employed, or are amenable

to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

13.12(5)(i) Any water or wastes which, by interaction with other water or wastes in the sanitary sewer system, release obnoxious gases, form suspended solids or create a condition deleterious to structures and treatment processes.

13.12(5)(j) Materials which exert or cause: 1. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility.

13.12(5)(j)2. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

13.12(5)(j)3. Unusual concentrations of inert suspended solids (such as, but limited to, fuller’s earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium sulfate).

13.12(5)(k) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

13.12(5)(L) Incompatible pollutants in excess of the allowed limits as determined by local, state and federal laws and regulations by the Environmental Protection Agency (EPA), 40 CFR 403, as amended from time to time.

13.13 WPDES PERMIT. No person shall cause or permit a discharge into the sanitary sewers that would cause a violation of the Municipality’s WPDES permit and any modifications thereof. (Renum. fr. Ord. 214 §204, 9/25/94)

13.14 SPECIAL ARRANGEMENTS. No statement contained in this chapter shall be construed as prohibiting any special agreement between the Approval Authority and any person whereby a waste of unusual strength or character may be admitted to the wastewater treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater treatment facilities by reason of the admission of such wastes, and no extra costs are incurred by the Municipality without recompense by the person; and further provided that all rates and provisions set forth in this Ordinance are recognized and adhered to. (Renum. fr. Ord. 214 §205, 9/25/94)

13.15 NEW CONNECTIONS. A new connection to the Municipality’s sanitary sewer system will be allowed only if there is available capacity in all of the down-stream wastewater treatment facilities. No new connections to the Municipality’s Sanitary Sewer will be allowed for areas outside of the Municipality’s corporate limits. (Renum. fr. Ord. 214 §206, 9/25/94)

CONTROL OF INDUSTRIAL WASTES DIRECTED TO PUBLIC SEWERS

13.20 CONTROL OF INDUSTRIAL WASTES. (1) SUBMISSION OF BASIC DATA. The Approving Authority may require each person who discharges or seeks to discharge industrial wastes to a public sewer to prepare and file with the Approving Authority, at such times as it determines a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater treatment

facilities. In the case of a new connection, the Approving Authority may require that this report be prepared prior to making the connection to the public sewers. (Renum. fr. Ord. 214 §301, 9/25/94)

- 13.20(2) INDUSTRIAL DISCHARGES. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters or wastes contain substances or possess the characteristics enumerated in §§13.10 through 13.15 supra, and which in the judgement of the Approving Authority have a deleterious effect upon the wastewater treatment facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life, health or constitute a public nuisance, the Approving Authority may:

13.20(2)(a) Reject the wastes.

13.20(2)(b) Require pretreatment to an acceptable condition of discharge to the public sewers.

13.20(2)(c) Require control over the quantities and rates of discharge, and/or,

13.20(2)(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this Ordinance. (Renum. fr. Ord. 214 §302, 9/25/94)

- 13.20(3) DILUTION PROHIBITION. No industrial user shall increase the use of process water or dilute a discharge as a substitute for adequate treatment to achieve compliance with any Pretreatment Standard or Requirement. (Renum. fr. Ord. 214, §303, 9/25/94)

- 13.21 SPILL PREVENTION AND SLUG CONTROL PLANS. (Renum. fr. Ord. 214, §304, 9/25/94) (1) SPILL PREVENTION. (a) Industrial users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing spill prevention plans.

13.21(1)(b) Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense.

13.21(1)(c) Spill prevention plans, including the facilities and the operating procedures shall be approved by the POTW before construction of the facility.

- 13.21(2) SPILL PREVENTION PLAN. (a) Industrial users that store hazardous substances shall not contribute to the POTW after the effective date of this chapter unless a spill prevention plan has been approved by the POTW.

13.21(2)(b) Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

- 13.21(3) REQUIRING SLUG CONTROL PLANS. The POTW shall evaluate each significant industrial user at least once every two years, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements: (a) Description of discharge practices, including nonroutine batch discharges;

13.21(3)(b) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under §13.12 supra, with procedures for follow-up written notification within 5 days;

13.21(3)(c) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

- 13.22 NOTIFICATION. (Renum. fr. Ord. 214, §305, 9/25/94) (1) **INDUSTRIAL USER NOTIFICATION.** (a) Immediate Notification Required. In the case of any discharge in violation of this chapter or permit conditions, and in the case of any discharge that could cause problems to the POTW, including any slug loadings, as defined by §13.05(42) of this chapter, the industrial user shall immediately notify the POTW or the Village Clerk/Treasurer of the discharge by telephone. The notification shall include:
- 13.22(1)(a)1. The date, time, location and duration of the discharge;
- 13.22(1)(a)2. The type of waste including concentration and volume; and,
- 13.22(1)(a)3. Any corrective actions taken by the user.
- 13.22(1)(b) User Written Report Required. Within 5 days following such a discharge the user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar discharges.
- 13.22(1)(c) Notification is Not Exemption. Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this chapter or other applicable State or federal law.
- 13.22(2) **NOTIFICATION OF CHANGED DISCHARGE.** All industrial users shall promptly notify the POTW, in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 40.12(p).
- 13.23 EMPLOYEE TRAINING. The industrial user shall permanently post a notice in a prominent place advising all employees to call the POTW or the Village Clerk/Treasurer in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure. (Renum. fr. Ord. 214, §9/25/94)
- 13.24 RECORDS. Users shall retain and make available upon request of authorized representatives of the POTW, the State, or the EPA all records required to be collected by the user pursuant to this chapter or any permit or order issued pursuant hereto.
- 13.24(1) **AVAILABILITY DEFINED.** These records shall remain available for a period of at least 3 years after their collection.
- 13.24(2) **AVAILABILITY EXTENDED BY LITIGATION.** This period shall be extended during any litigation concerning compliance with this chapter or permit conditions. (Renum. fr. Ord. 214, §307, 9/25/94)

- 13.25 ANALYTICAL REQUIREMENTS. All analyses, including sampling results submitted in support of any application reports, evidence or required by any permit or order shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA. (Renum. fr. Ord. 214, §308, 9/25/94)
- 13.26 CONFIDENTIAL INFORMATION. (Renum. fr. Ord. 214, §309, 9/25/94) (1) USER DEMONSTRATION OF CONFIDENTIALITY REQUIRED. Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the POTW. Effluent data shall be available to the public without restriction.
- 13.26(2) PROTECTIONS AND RELEASE. When the person furnishing a report satisfies the POTW that such person has made the demonstration required by subs. (1), the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by the State or EPA for uses related to this ordinance, the NPDES permit or the pretreatment program. Confidential portions of a report shall be available for use by the State or EPA in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.
- 13.27 RIGHT OF ENTRY. Representatives of the POTW, the State and EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Industrial Users shall allow authorized representatives of the POTW, State and EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, State and EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing protective gear, the user shall make necessary arrangements at its own expense, to enable authorized representatives of the POTW, State and EPA to enter and inspect the premises as guaranteed by this section. (Renum. fr. Ord. 214, §310, 9/25/94)
- 13.28 CONTROL MANHOLES. (Renum. fr. Ord. 214, §311, 9/25/94) (1) GENERAL REQUIREMENTS. Each person discharging industrial wastes into a public sewer shall, at the discretion of the Approving Authority, construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of wastes, including sanitary sewage. Control manholes or access facilities shall be located and built in a manner acceptable to the Approving Authority.
- 13.28(2) MINIMUM GUIDELINES FOR MEASURING AND/OR SAMPLING DEVICES. If measuring and/or sampling devices are to be permanently installed, they shall meet the following minimum guidelines:

13.28(2)(a) A minimum 6' diameter manhole with steps and a bench for setting of equipment shall be installed. These manholes shall have a minimum 24" diameter opening with cast iron manhole cover or lockable lid. These sampling manholes shall be located at least 15 feet downstream of any bend, junctions or manholes. Maximum slope of upstream pipe shall be 2%.

13.28(2)(b) All manholes shall be installed with flow measuring devices such as a Parshall flume, Palmer Bowlus flume, subsonic flume, or other suitable device as approved by the Approving Authority. An integral staff gauge shall be provided with each unit with measurements in hundredths of a foot. Flume size and type depends on flow rates anticipated and accuracy desired.

13.28(2)(c) A flow metering device shall be provided. The metering device shall be a bubbler, ultrasonic or subsonic device. Flow shall be indicated, totalized, and recorded. A 4-20 ma signal or pulse proportional to flow shall be outputted to a sampler for flow proportional sampling.

13.28(2)(d) A refrigerated flow proportional sampler shall be furnished, suitable for composite or hourly sampling (24 intervals).

13.28(2)(e) Plans for the aforementioned facilities shall be prepared by a licensed professional engineer.

13.28(2)(f) Plans, specification and hydraulic calculations shall be submitted to the Approving Authority. Control manholes, access facilities and related equipment shall be installed by the person discharging the waste, at his expense, and shall be maintained by him so as to be in safe conditions, accessible and in proper operating condition at all times.

13.29 HAZARDOUS WASTE NOTIFICATION. (Renum. and recr. fr. Ord. 214 §312, 9/25/94) (1)
WRITTEN NOTIFICATION REQUIRED. Any Industrial User, except as specified in subs. (5) below, which discharges to the POTW and substance which, if otherwise disposed of, would be a listed or characteristic hazardous wastes under 40 CFR part 261, shall notify the POTW in writing of such discharge.

13.29(2) REQUIREMENTS SPECIFIED. All hazardous waste notifications shall include: (a) The name of the hazardous waste as set forth in 40 CFR part 261;

13.29(2)(b) The EPA hazardous waste number;

13.29(2)(c) The type of discharge (continuous, batch, or other); and,

13.29(2)(d) A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

13.29(3) In addition to the information submitted in subs. (2) supra, the notification by Industrial Users discharging more than 100 kg of hazardous waste per calendar month to the POTW, shall contain to the extent such information is known and readily available to the Industrial User;

13.29(3)(a) An identification of the hazardous constituents contained in the waste;

13.29(3)(b) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and,

13.29(3)(c) An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

13.29(4) **TIMING FOR SUBMISSION(S).** Hazardous waste notifications shall be submitted in accordance with the requirement of this chapter, except that Industrial Users commencing the discharge of listed or characteristic hazardous wastes, shall provide the notification no later than 180 days from the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted under §13.22(2) of this chapter.

13.29(5) **NOTIFICATION EXEMPTION.** Industrial Users are exempt from the hazardous waste notification requirement during a calendar month in which they discharge 15 kg or less of non-acute hazardous wastes.

13.29(6) **ACUTE HAZARDOUS WASTE NOTIFICATION.** Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one time notification.

13.30 **MEASUREMENT OF FLOW.** The volume of flow used for computing sewer service charges shall be the metered water consumption of the person as shown in the records of meter readings maintained by the Water Department or Utility except as noted in §13.31 of this chapter. (Renum. fr. Ord. 214, §313, 9/25/94)

13.31 **METERING, SAMPLING AND PRETREATMENT OF WASTE.** (Renum. fr. Ord. 214, §314, 9/25/94) (1) **METERING.** (a) **Devices Required.** Devices for measuring the volume of waste discharged may be required by the Approving Authority if this volume cannot otherwise be determined from the metered water consumption records.

13.31(1)(b) **Installation, Ownership and Maintenance.** Metering devices for determining the volume of waste shall be installed, owned and maintained by the person discharging the wastewater. Following approval and installation, such meters may not be removed without the consent of the Approving Authority.

13.31(2) **WASTE SAMPLING.** (Renum. fr. Ord. 214, §315, 9/25/94) (a) **Periodic Inspections.** Industrial wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes.

13.31(2)(b) **Determinations.** The determination shall be made by the industry as often as may be deemed necessary by the Approving Authority.

13.31(2)(c) **Sample Collections.** Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the Approving Authority.

13.31(2)(d) Sampling Facilities. 1. Installation, operation and maintenance of the sampling facilities shall be the responsibility of the person discharging the waste and shall be subject to the approval of the Approving Authority.

13.31(2)(d)2. Access to sampling locations shall be granted to the Approving Authority or its duly authorized representatives at all times. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

13.31(3) PRETREATMENT. (Renum. fr. Ord. 214 §316, 9/25/94) Persons discharging industrial wastes into any public sewer may be required to pretreat such wastes, if the Approving Authority determines pretreatment is necessary to protect the wastewater treatment facilities or prevent the discharge of incompatible pollutants. Such persons shall be responsible for the expenses of such pretreatment or processing facilities as may be determined necessary to render wastes acceptable to admission to the sanitary sewers.

13.32 GREASE, OIL & SAND INTERCEPTORS. Grease, oil and sand interceptors shall be provided at restaurants, repair garages, gasoline stations, car washes and other industrial or commercial establishments for the proper handling of liquid wastes containing grease in excessive amounts, oil, flammable wastes, sand and other harmful ingredients. All sand and grease trap installations shall be constructed in accordance with the state plumbing code and shall be located as to be readily and easily accessible for easy cleaning and inspection. All grease, oil and sand interceptors shall be maintained by the owner, at their expense, in continuous, efficient operation at all times. The owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Approving Authority. Disposal of the collected materials performed by owner's personnel or currently licensed waste disposal firms must be in accordance with currently acceptable department of natural resources' rules and regulations. Sewer users failing to have interceptors or having inoperable interceptors will have 30 days to comply or fines will be issued.

13.33 ANALYSES. (Renum. fr. Ord. 214, §318, 9/25/94) (1) ESTABLISHED GUIDELINES ADOPTED. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods" and with the Federal Regulations of 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants", as amended from time to time. Sampling methods, location, time, durations and frequencies are to be determined on an individual basis subject to approval of the Approving Authority.

13.33(2) DISHCARGERS RESPONSIBILITIES. Determination of the character and concentration of the industrial wastes shall be made by the person discharging them, or the person's agent, as designated and required by the Approving Authority at the cost of the discharger. The Approving Authority may also make its own analyses on the wastes, and these determinations shall be binding as a basis for sewer service charges.

13.36 SUBMISSION OF INFORMATION. Plans, specifications and any other pertinent information relating to proposed flow equalization, pretreatment or grease and/or sand interceptor facilities shall be submitted for review and approval of the Approving Authority prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers. No construction of such facilities shall commence until said approval has been granted. (Renum. fr. Ord. 214, §319, 9/25/94)

BASIS FOR SEWER SERVICE CHARGES

- 13.37 SEWER SERVICES AND CHARGES. (1) SEWER USERS SERVED BY WATER UTILITY WATER METERS. (a) There is hereby levied and assessed upon each lot, parcel of land, building or premises having a connection with the wastewater collection system and being served with water solely by the Water Utility, a sewer service charge based, in part, on the quantity of water used, as measured by the Water Utility water meter used upon the premises. (Renum. fr. Ord. 214, §401, 9/25/94)
- 13.37(1)(b) Sewer services are provided to residential, commercial, industrial, agricultural and public authority customers within the Village of Lomira boundaries. Sewer services are not provided and the Village is not obligated to provide sewer services to persons residing or owning property outside the Village of Lomira boundaries commencing September 25, 2019. Existing sewer customers as of September 25, 2019 that reside outside the corporate limits of the village of Lomira receive service billed at the regular rates for service (Schedule Mg-1) plus a 25% surcharge. (Renum. fr. Ord. 162, 1983, recr. as §13.24.050)
- 13.37(2) SEWER USERS SERVED BY PRIVATE WELLS. If any person discharging wastewater into the public sanitary sewers procures any part or all of his water from sources other than the Water Utility, all or part of which is discharged into the sanitary sewer, the person shall have water meters installed by the Water Utility at the person's expense for the purpose of determining the volume of water obtained from these sources. Where sewer meters are already installed, new water meters will not be required. The water meters shall be furnished by the Water Utility and installed under its supervision, all costs being at the expense of the person requiring the meter. The Water Utility will charge for each meter a rental charge set by the Water Utility to compensate for the cost of furnishing and servicing the meter. The rental charge shall be billed at the time the sewer service charge is billed.
- 13.37(3) DEDCUT METERS. (Renum. and recr. fr. Ord. 214, §403 [partial], 9/25/94) If a user feels that a significant amount of metered water does not reach the sanitary sewer, the user may exercise one of the following options:
- 13.37(3)(a) Deduct Meter. The user may request the Approving Authority to have such additional meters or metered services installed as are necessary to calculate the volume of water not discharged to the sanitary sewer (i.e., a "deduct" meter); or,
- 13.37(3)(b) Sewage Meter. The user may request the Approving Authority to have a meter installed to measure the actual amount of sewage discharged to the sanitary sewer (i.e., a "sewage" meter).
- 13.37(4) REQUESTS FOR SERVICES AND CHARGES. (Renum. and recr. fr. Ord. 214, §403 [partial], 9/25/94) Requests for a second meter or metered services must be made in writing to the Approving Authority. In the event the Approving Authority agrees to such installations, the customer shall be charged all costs attendant thereto including, but not limited to;
- 13.37(4)(a) Meter Yoke. A meter yoke for each meter (to be installed by a licensed plumber);

13.37(4)(b) Meter Rental. Meter rental (the meter will be owned by the Village and subject to access and inspection by the Village personnel at all reasonable times) in an amount set annually by the Approving Authority; remote reading device(s) if necessary; and,

13.37(4)(c) Labor and Selected Materials. Labor and miscellaneous parts and supplies.

13.37(5) ROUTING WATER FROM DEDUCT METER REGULATED. (Renum. and recr. fr. Ord. 214, §403 [partial], 9/25/94) No provision shall be made, nor shall any means be taken, to route water from any “deduct” meter to the customer’s general distribution system. In addition to the general penalties set forth in Article IX, any violation of this section will result in nullification of the deduct readings and removal of the deduct meter.

13.37(6) USER REQUESTS FOR ESTIMATES. (Renum. and recr. fr. Ord. 214, §403 [partial], 9/25/94) In the event it is physically impractical or impossible to install metering equipment, the user may request the Approving Authority to take such means as it deems necessary to formulate an estimate of the amount of water not being discharged into the sanitary sewerage system, or, conversely, the amount of actual sewage discharged thereto.

13.37(7) OPTIONS UNAVAILABLE FOR SEASONAL USAGE. (Renum. and recr. fr. Ord. 214, §403 [partial], 9/25/94) Neither of the options set forth in this subsection shall be applicable or available to customers for “reasons” which are attendant to use of water for the filling of pools or watering of lawns and outdoor greenery. Such seasonal use of water (that does not reach the sewer system) has been figured into the rates for the second and third quarter(s).

13.38 CUSTOMERS OUTSIDE OF THE VILLIAGE LIMITS. A surcharge shall be added to the debt service portion of the sewer service charges of all customers located outside of the corporate limits of the Municipality. (Renum. fr. Ord. 214, §404 [partial], 9/25/94)

AMOUNT OF SEWER SERVICE CHARGES

13.39 SEWER SERVICE CHARGE(S). (Renum. fr. Ord. 214, §501, 9/25/94) (1) UNIT COSTS. (a) The unit costs for the sewer service charge for Operation, Maintenance, Replacement and Debt are as follows:

1. BOD:	\$2.53/lb.
2. SS:	\$1.39/lb
3. P:	\$43.75/lb
4. NH ₃ N	\$3.77/lb
5. Fixed Charge:	\$26.02/user/month

13.39(1)(b) The volume component of the sewer service charge includes Operation, Maintenance, Replacement and Debt, as follows:

1. Inside Village:	\$12.70/1,000-gallons
2. Outside Village:	\$15.88/1,000-gallons

13.39(2) CATEGORY “A” SEWER SERVICE CHARGE. (Renum. fr. Ord. 214, §502, 9/25/94) The sewer service charge for Category “A” sewer users with normal domestic strength wastewater is as follows:

(a) Fixed Monthly Charge:	\$26.02/user/quarter
(b) Volume Charge (per 1,000-gallon): Inside Village:	\$12.70/1,000-gallons
Outside Village:	\$15.88/1,000-gallons

13.39(3) CATEGORY “B” SEWER SERVICE CHARGE. (Renum. fr. Ord. 214, §503, 9/25/94) (a) The sewer service charge for Category “B” sewer users with wastewater concentrations in excess of domestic strength wastewater is as follows:

1. Fixed Monthly Charge:	\$26.02/user/quarter
2. Total Monthly Charge:	
Inside Village:	\$12.70/1,000-gallons
Outside Village:	\$15.88/1,000-gallons
3. Surcharge: BOD	>175 mg/l=\$2.53/lb.
4. Surcharge: SS	>185 mg/l=\$1.39/lb.
5. Surcharge: P	>2.86 mg/l=\$43.75/lb.
6. Surcharge: NH ₃ N	>21.5 mg/l=\$3.77/lb.

13.39(3)(b) The Category “B” sewer service charge(s) shall be computed in accordance with the formula: $T = FQ + (V \times CV) + .00834 V (B \times CB + S \times CS + P \times CP + N \times CN)$
Where:

T= Total sewer service charge

FQ= Fixed quarterly charge

B= Concentration of BOD in mg/l in the wastewater above 175 mg/l

S= Concentration of SS in mg/l in the wastewater above 185 mg/l

P= Concentration of P in mg/l in the wastewater above 2.86 mg/l

N= Concentration of NH₃N in mg/l in the wastewater above 21.5 mg/l

V= Wastewater volume in 1,000 gallons

C_V= Cost per 1,000 gallons

C_B= Cost per pound of BOD

C_S= Cost per pound of SS

C_P= Cost per pound of P

C_N= Cost per pound of NH₃N

.00834= Conversion Factor

(This Formula Shall Not Be Construed to Give Credits for a Waste Strength less than Domestic Concentrations for BOD, SS, P, OR NH₃N)

13.40 REASSIGNMENT OF SEWER USERS. The Approving Authority will reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs or other related information indicate a change of categories is necessary. (Renum. fr. Ord. 214, §504, 9/25/94)

13.41 OPERATION, MAINTENANCE AND REPLACEMENT FUND ACCOUNTS. All sewer service charge revenues collected for replacement costs shall be deposited in a separate and distinct fund to be used solely for replacement costs as defined in §13.05(33). All sewer service charge revenues collected for other operation and maintenance expenses shall also be deposited in a separate and distinct fund. All revenues for the replacement fund and for operation and maintenance of the wastewater treatment

facilities shall be used solely for the replacement fund and operation and maintenance of the wastewater facilities. (Renum. fr. Ord. 214, §505, 9/25/94)

- 13.42 DISPOSAL OF SEPTIC TANK SLUDGE & HOLDING TANK SEWAGE. (Renum. and recr. fr. Ord. 214, §506, 9/25/94) (1) DISPOSAL PERMIT REQUIRED. No person in the business of gathering and disposing of septic tank sludge or holding tank sewage shall transfer such material into any disposal area or public sewage unless a permit for disposal has been first obtained from the Approving Authority.
- 13.42(2) PERMIT PROCEDURES. Written application for the permit required by this section shall be made to the Approving Authority and shall state the name and address of the applicant; the number of its disposal units; and the make, model and license number of each unit.
- 13.42(2)(a) Non-Transferrable. Permits shall be non-transferrable except in the case of replacement of the disposal unit for which a permit shall have been originally issued.
- 13.42(2)(b) Fee. The permit may be obtained upon payment of a fee of \$50 per calendar year.
- 13.42(2)(c) Approving Authority Conditions. The time and place of disposal will be designated by the Approving Authority. The Approving Authority may impose such conditions as it deems necessary on any permit granted.
- 13.42(3) PUBLIC LIABILITY INSURANCE: REQUIREMENTS. Any person or party disposing of septic tank sludge or holding tank sewage agrees to carry public liability insurance in an amount not less than \$100,000 to protect any and all persons or property from injury and/or damage caused in any way or manner by an act, or the failure to act, by any of the person's employees. The person(s) shall furnish a certificate certifying such insurance to be in full force and effect.
- 13.42(4) DISPOSAL MATERIAL REGULATED. All materials disposed of into the treatment system shall be of domestic origin, or compatible pollutants only, and the person agrees that they will comply with the provisions of any and all applicable ordinances of the Village and shall not deposit or drain any gasoline, oil, acid, alkali, grease, rags, waste, volatile or flammable liquids or other deleterious substances into the public sewers, nor allow any earth, sand or other solid material to pass into any part of the wastewater treatment facilities.
- 13.42(5) HANDLING CHARGE. Persons with a permit for disposing of septic tank sludge and/or holding tank sewage into the wastewater treatment facilities shall be charged a handling charge of \$5 per discharge and a volume charge as follows:
- 13.42(5)(a) Septic Tank Sludge \$50.45/1,000 gallons;
- 13.42(5)(b) Holding Tank Sewage \$8.64/1,000 gallons.
- 13.42(6) VILLAGE INDEMNIFICATION. The person disposing wastes agrees to indemnify and hold harmless the Village from any and all liability and claims for damages arising out of or resulting from work and labor performed.

- 13.43 CHARGE FOR TOXIC POLLUTANTS. Any person discharging toxic pollutants which cause an increase in the cost of managing the effluent or sludge from the municipality's wastewater treatment facility shall pay for such increased costs, as may be determined by the Approving Authority. (Renum. fr. Ord. 214, §507, 9/25/94)
- 13.44 FEES FOR INDUSTRIAL MONITORING. (Renum. and recr. fr. Ord. 214, §508, 9/25/94) The POTW may adopt charges and fees which may include: (1) PRETREATMENT PROGRAM FEES. Fees for reimbursement of costs of setting up and operating the POTW Pretreatment Program.
- 13.44(2) MONITORING INSPECTION AND SURVEILLANCE FEES. Fees for monitoring inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by the Industrial User.
- 13.44(3) ACCIDENTAL DISCHARGE FEES. Fees for reviewing accidental discharge procedures and construction.
- 13.44(4) PERMIT APPLICATIONS FEES. Fees for permit applications including the cost of processing such applications.
- 13.44(5) APPEALS FEES. Fees for filing appeals.
- 13.44(6) GENERAL POTW FEE AUTHORITY. Other fees as the POTW may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the POTW.

BILLING PRACTICE

- 13.45 CALCULATION OF USER CHARGES. User charges shall be computed according to the rates and formula presented in this chapter. (Renum. fr. Ord. 214, §601, 9/25/94)
- 13.46 USER CHARGE BILLING PERIOD. User charges shall be billed by the Village to the sewer users on a quarterly basis. (Renum. fr. Ord. 214, §602, 9/25/94)
- 13.47 PAYMENT OF SEWER SERVICE CHARGES. Those persons billed by the Village for the sewer service charges shall pay such charges within 20 days after the bill date. (Renum. fr. Ord. 214, §603, 9/25/94)
- 13.48 PENALTIES. (Renum. and recr. fr. Ord. 214, §604, 9/25/94) (1) CHARGES ARE DEBT. Such sewer service charges levied by the Village against the sewer users in accordance with this chapter shall be a debt due to the Village and shall be a lien upon the property.
- 13.48(2) ADDITIONAL COSTS. (a) Late Payment Penalty. If this debt is not paid within 20 days after it is due, a penalty equal to 3% of the debt due shall be added to the sewer charges.
- 13.48(2)(b) Delinquent Status. In addition, it may be deemed delinquent and may be placed, together with such penalties as provided by statute, in the next year's tax roll and be collected as other taxes are collected.

13.48(2)(c) Penalties and Ownership or Occupancy Changes. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

SEWER CONSTRUCTION AND CONNECTIONS

- 13.52 GENERAL PROVISIONS. (Renum. and recr. fr. Ord. 214, Art. III and §§801 through 809, 9/25/94) (1) **WORK AUTHORIZED.** No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the sanitary sewer or appurtenances thereof without first obtaining a written permit from the Approving Authority.
- 13.52(2) **COST OF SEWER CONNECTION.** All costs and expenses incident to the installation and connection of the building sewer shall be borne by the person making the connection. (Renum. fr. Ord. 214, §802, 9/25/94)
- 13.52(3) **USE OF OLD BUILDING SEWERS.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Approving Authority, to meet all requirements for this CHAPTER. (Renum. fr. Ord. 214, §803, 9/25/94)
- 13.52(4) **MATERIALS AND METHODS OF CONSTRUCTION.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall conform to the requirements of the Village's building and plumbing code or other applicable rules and regulations of the Village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No.9 shall apply. (Renum. fr. Ord. 214, §804, 9/25/94)
- 13.52(5) **BUILDING SEWER GRADE.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (Renum. fr. Ord. 214, §805, 9/25/94)
- 13.52(6) **STORM AND GROUND WATER DRAINS.** No person shall make connection of roof downspout, exterior foundation drains, area-way drains or other sources of surface runoff or ground water to a building sewer or building drain which is connected directly or indirectly to a sanitary sewer. All existing downspout or ground water drains, etc., connected directly or indirectly to a sanitary sewer shall be disconnected within 60 days of the date of an official written notice from the Approving Authority. (Renum. fr. Ord. 214, §806, 9/25/94)
- 13.52(7) **CONFORMANCE TO PLUMBING CODES.** The connection of the building sewer into the sanitary sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the Village or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No.9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before installation. (Renum. fr. Ord. 214, §807, 9/25/94)
- 13.52(8) **CONNECTION INSPECTION.** The person making a connection to a public sewer shall notify the Approving Authority when the building sewer is ready for inspection and

connection to the public sewer. The connection shall be inspected and approved by the Approving Authority. (Renum. fr. Ord. 214, §808, 9/25/94)

- 13.52(9) **BARRICADES AND RESTORATION.** All excavations for the building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalk, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Approving Authority. (Renum. fr. Ord. 214, §809, 9/25/94)

APPEALS

- 13.55 **APPEAL PROCEDURES.** (Renum. and recr. fr. Ord. 214, §1001, 9/25/94) (1) **WRITTEN REQUEST REQUIRED.** Any user, permit application or permit holder affected by a decision, action or determination, including cease and desist orders, made by the Approving Authority interpreting or implementing the previous provisions of this chapter or in any permit issued herein, may file with the Approving Authority a written request for reconsideration within 10 days of the date of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- 13.55(2) **NOTIFICATION OF ACTION.** The Approving Authority shall render a decision on the request for reconsideration to the user, permit applicant, or permit holder in writing 15 days of receipt of request. If the ruling on the request for reconsideration made by the Approving Authority is unsatisfactory, the person requesting reconsideration may, within 10 days after notification of the action, file a written appeal with the Village Board of the Village of Lomira.
- 13.55(3) **VILLAGE BOARD HEARING AND RULING.** The written appeal shall be heard by the Village Board within 30 days from the date of filing. The Village Board shall make a final ruling on the appeal within 10 days from the date of the hearing.

VALIDATION

- 13.56 **SUPERSEDING PREVIOUS ORDINANCES.** The previous provisions of this chapter governing sewer use, industrial wastewater discharges, sewer service charges and sewer connections and construction shall replace and supersede all previous ordinances of the Village regarding sewer service charges. (Renum. fr. Ord. 214, §1101, 9/25/94)
- 13.57 **SEVERABILITY.** If any section, clause, sentence, 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. (Renum. fr. Ord. 214, §1102, 9/25/94)
- 13.58 **AMENDMENTS.** The Village Board, through its duly authorized officers, reserves the right to amend sewer service charges authorized under this chapter in part or in whole whenever it may deem necessary. (Renum. fr. Ord. 214, §1103, 9/25/94)

AUDIT, SOTIFICATION AND RECORDS

- 13.59 **VILLAGE REVIEW OF EXPENSES AND CHARGES.** (Renum. fr. Ord. 214, §1201, 9/25/94) (1) **BIENNIAL AUDIT.** The Village shall review, at least every 2 years, the wastewater contribution of its sewer users, the operation, maintenance and replacement expenses of the wastewater treatment facilities, and the sewer service charge system. Based upon this

review, the Village shall revise the sewer service charge system, if necessary, to accomplish the following:

13.59(1)(a) Maintain a proportionate distribution of operation and maintenance expenses among sewer users based upon the wastewater volume and pollutant loadings discharged by the users.

13.59(1)(b) Generate sufficient revenue to pay the debt service costs and the total operation and maintenance costs necessary to provide for the proper operation and maintenance (including replacement) of the treatment works.

13.59(1)(c) Apply excess revenues collected from a class of users to the operation and maintenance expenses attributable to that class of users for the next year and adjust the sewer service charge rates accordingly.

13.59(2) ANNUAL NOTIFICATION. The Village shall notify its sewer users annually about the sewer service charge rates. The notification shall show what portion of the rates are attributable to the operation and maintenance expenses, and debt service costs of the wastewater treatment facilities. The notification shall occur in conjunction with a regular bill. (Renum. fr. Ord. 214, §1202, 9/25/94)

13.59(3) RECORDS. The Village shall maintain records regarding wastewater flows and loadings, costs of the wastewater treatment facilities, sampling programs and other information which is necessary to document compliance with 40 CFR 35, Subp.E of the Clean Water Act. (Renum. fr. Ord. 214, §1203, 9/25/94)

VIOLATIONS AND PENALTIES

13.60 VIOLATION AND PENALTY PROVISIONS. (Renum. fr. Ord. 214, §901, 9/25/94) Except as otherwise provided herein, any person found in violation of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in §25.04 of this Code.

13.60(1) PUBLIC NUISANCE. The violation of any provision of §13.10 through 13.38, 13.43, or 13.49, 13.50 and 13.51 of this chapter, shall constitute a public nuisance as that term is used in this Code and State Statutes.

13.60(2) ABATEMENT OF NUISANCE-NO IMMEDIATE DANGER. If it is determined that a public nuisance has been created, or is being maintained, by a violation of this chapter (as set forth hereinabove), but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, written notice shall be served on the person causing or maintaining the nuisance to remove or correct the same (identifying the nature of the violation) within a specified reasonable time. The offender shall, within the period of time stated in said notice, abate the nuisance and permanently cease all violations. (Renum. fr. Ord. 214, §902, 9/25/94)

13.60(3) ABATEMENT OF NUISANCE-IMMEDIATE DANGER. If it is determined that a public nuisance caused by the violation of this chapter exists, and that there is great and immediate danger to public health, safety, peace, morals or decency, the Village Board, Village Engineer and/or Chief of Police may cause the same to immediately be abated, and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be. If notice to abate the nuisance has been

given to the owner, such cost shall be assessed against the real estate as a special charge.
(Renum. fr. Ord. 214, §903, 9/25/94)

- 13.60(4) **ACCIDENTAL DISCHARGE.** Any person found to be responsible for accidentally allowing a deleterious discharge into the sewer system which causes damage to the wastewater treatment facility and/or receiving body of water shall, in addition to being fined, pay an amount to cover any damages, both values to be established by the Approving Authority. (Renum. fr. Ord. 214, §904, 9/25/94)
- 13.60(5) **LIABILITY TO VILLAGE FOR LOSSES.** Any person violating any provisions of this chapter shall, in addition to any penalty or fine which may be assessed against said person, become liable to the Village for any expense, loss or damage occasioned by reason of such violation which the Village may suffer as a result thereof. (Renum. fr. oRd. 214, §906, 9/25/94)
- 13.60(6) **ENFORCEMENT OF INDUSTRIAL PROVISIONS.** (Renum. and recr. fr. Ord. 214, §907, 9/25/94)
(a) Notification of Violation. Whenever the POTW finds that any industrial user has violated or is violating the previous provisions of this chapter, or a wastewater permit or order issued hereunder, the Approving Authority or the designated agent of the Authority may serve upon said user written notice of the violation.
- 13.60(6)(b) Response to Notification. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Approving Authority.
- 13.60(6)(c) User Liability Not Waived by Responding. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.
- 13.60(7) **CIVIL PENALTIES.** (Renum. fr. Ord. 214, §907-b, 9/25/94) (a) Under §66.902(1)(e), Wis. Stats., if any person fails to comply with a rule of the Approving Authority, the Approving Authority may obtain an injunction under §823.02, Wis. Stats., or the Approving Authority may initiate an action for the civil remedies under §283.91(2) or (5), Wis. Stats. If the Approving Authority acts under §283.91(2) or (5), Wis. Stats., the Village may recover the forfeiture in a civil action brought by the approving Authority in the name of the Village. Collected forfeitures shall be paid into the utility fund. The forfeiture shall be in addition to and does not substitute for any damages recoverable by the Village.
- 13.60(7)(b) Any industrial user who has violated or continues to violate the previous provisions of this chapter or any order or permit issued hereunder, shall be liable to the POTW for a civil penalty under §283.91(2) or (5), Wis. Stats., plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the POTW may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.
- 13.60(7)(b)1. The Approving Authority shall petition the Court to impose, assess, and recover such sums.

13.60(7)(b)2. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

WATER RATES

13.70 WATER RATES ESTABLISHED. (Renum. and recr. fr. Ord. 111 §2 [partial], as amended by Ord. 162, 1983, amending Ch. 13.24) The rates for water service for the Village water system are established as set forth in this chapter.

13.70(1) **MUNICIPAL FIRE PROTECTION SERVICE: F-1.** For public fire-protection service to the Village of Lomira, the annual charge shall be \$60,335 to cover the use of mains and hydrants up to and including the terminal hydrant and connection on each main existing for the 1990 test year. For all extensions of fire-protection service, a charge of 60¢ per lineal foot of main shall be charged per annum on the basis of the length of main put into use between hydrants placed, plus a charge of \$79 net per hydrant added to the system after the base period. This service shall include the use of hydrants for fire protections service only and such quantities of water as may be deemed for the purpose of extinguishing fires within the municipal boundary only. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission shall apply. The above base annual charge of \$60,335 includes an estimated 51,332 feet of distribution main, 4-inch and larger, and 94 hydrants. (Renum. fr. §13.24.020)

13.70(2) **PUBLIC SERVICE: Mpa-1.** Water service supplied to municipal buildings, schools, etc. shall be metered and the regular metered service rates applied. Water used on an intermittent basis for flushing sewer, street sprinkling, flooding skating rinks, drinking fountains, etc., shall be metered where meters can be set to measure the service. Where it is impossible to measure the service, the superintendent shall estimate the volume of water used based on the pressure, size of opening and period of time water is allowed to be drawn. The estimated quantity used shall be billed at the rate of \$1.30 per 1,000 gallons. (Renum. fr. §13.24.030)

13.70(3) **GENERAL SERVICE: METERED-URBAN: Mg-1.** (Renum. and recr. fr. Ord. 162, 1983, recr. as §13.24.040)

5/8 & 3/4 -inch meter	\$16.39	3-inch meter	\$91.79
1-inch meter	\$29.50	4-inch meter	\$154.08
1 1/4 -inch meter	\$32.78	6-inch meter	\$301.59
2-inch meter	\$52.45		

13.70(3)(b) Volume Charge:

First 20,000 gallons used each quarter \$3.96 per 1,000 gallons
Next 80,000 gallons used each quarter \$3.69 per 1,000 gallons
Next 400,000 gallons used each quarter \$2.18 per 1,000 gallons
Over 500,000 gallons used each quarter \$1.87 per 1,000 gallons

13.70(3)(c) Billing. Bills for water service are rendered quarterly and become due and payable on the first of the month following the period for which service is rendered. A late payment charge of 3% but not less than 50¢ will be added to bills not paid within 20 days of issuance. This late payment charge is applicable to all customers. The utility customer may be given a written notice no sooner than 20 days after the bill is issued and unless payment or satisfactory arrangement for payment is made within the next 8 days, service may be disconnected pursuant to Wis. Adm. Code, Ch. PSC 185.

13.70(3)(d) Combined Metering. When a customer's premises has several buildings, each supplied with service and metered separately, the full service charge will be billed for each meter separately and the readings will not be combined. If these buildings are all used in the same business and are connected by the consumer, they can be metered in one place. If the utility, for its own convenience, installs more than one meter, the readings will be cumulated for billing.

13.70(4) GENERAL SERVICE: METERED. Water services are provided to residential, commercial, industrial, agricultural and public authority customers within the Village of Lomira boundaries. Water services are not provided and the Village is not obligated to provide water services to persons residing or owning property outside the Village of Lomira boundaries commencing September 25, 2019. Existing water customers as of September 25, 2019 that reside outside the corporate limits of the Village of Lomira receive service billed at the regular rates for service (Schedule Mg-1) plus a 25% surcharge. (Renum. fr. Ord. 162, 1983, recr. as §13.24.050)

13.70(5) BUILDING AND CONSTRUCTION WATER SERVICE: Mz-1. For single-family and small commercial buildings apply the quarterly service charge (Mg-1) for the size of meter to be installed. For large commercial industrial or multiple apartment buildings, a temporary metered installation shall be made and general, metered rates (Mg-1) applied. (Renum. fr. Ord. 162, 1983, recr. as §13.24.060)

13.70(6) PRIVATE FIRE PROTECTION SERVICE: UNMETERED: (Renum. fr. Ord. 162, 1983, recr. as §13.24.070) Upf-1. (a) Service for private fire protection shall consist of unmetered connections to the main for automatic sprinkler system, standpipes, (where same are connected permanently or continuously to the mains), and private hydrants.

13.70(6)(b) Quarterly demand charges for private fire protection service shall be as follows:

Size of Connection	Quarterly Charge
2-inch	\$23.00
3-inch	\$43.00
4-inch	\$72.00
6-inch	\$143.00
8-inch	\$230.00

13.70(6)(c) The same provisions apply as apply for general service.

13.70(6)(d) Combined service charges shall be determined as follows: 1. Where a 4-inch or larger connection is made to the main for private fire protection service, such service line may be tapped with a smaller size branch line for general service. This small branch line shall be metered and the water therefrom billed at the regular metered rates, Schedule Mg-1.

13.70(6)(d)2. The charge for private fire protection service will be that applicable to the size of connection to the main as stated in the schedule contained in subp.(b). Where “X” equals the unmetered private fire protection quarterly charge applicable to the size of connection, and “Y” is the quarterly minimum charge for general service, the quarterly charge for private fire protection service shall be (X-.30Y).

- 13.71 APPLICATION FOR SERVICE. Application for water service must be made at the Village Clerk/Treasurer’s office. (Renum. fr. Ord. 111 s2(g), 1971, as amended by Ord. 162, 1983, recr. as §13.24.090)

UTILITY SERVICE LATERAL REPAIRS

- 13.72 WATER SERVICE LATERAL REPAIRS. (Renum. and recr. fr. Ord. No. 143, 1981, creating Ch. 13.28) (1) **RESPONSIBILITY OF UTILITY.** It shall be the responsibility of the water utility to repair and maintain water service laterals from the main to, and inclusive of the curb stop and box.
- 13.72(2) **RESPONSIBILITY OF PROPERTY OWNER.** It shall be the responsibility of the property owner to repair and maintain the water service lateral from the curb stop to, and exclusive of the meter, including valves.
- 13.72(3) **FROZEN WATER SERVICE LATERALS.** In cases of frozen water service laterals, repairs will proceed as outlined in the utilities tariff of water department rules on file in the Village Clerk’s Office and with the Public Service Commission of Wisconsin.
- 13.73 SEWER SERVICE LATERAL REPAIRS. (1) **RESPONSIBILITY OF PROPERTY OWNER.** It shall be the responsibility of the property owner to repair and maintain the sewer service lateral from the building to the center of the street, whether the repair is necessitated because of plugging of the pipe, breaking, or heaving or settling of the pipe from the proper grade.
- 13.73(2) **RESPONSIBILITY OF UTILITY.** It shall be the responsibility of the sewer utility to repair and maintain sewer laterals from the center of the street to the main, in those cases where the main lays on the opposite side of the center of the street from the building.
- 13.73(3) **REPAIR TO CURB, GUTTER, SIDEWALK AND STREET.** Responsibility for repair of curb and gutter, sidewalk and street paving broken in the process of repairing laterals shall fall to the party responsible for repairing the lateral.

CROSS CONNECTION CONTROL

- 13.75 CROSS CONNECTION CONTROL SYSTEM. (Renum. fr. Ord. 152, 1982, creating Ch. 13.32) (1) **PURPOSE.** To provide a program for protecting the public water system from contamination due to backflow of contaminants through the water service connection into the public water system.
- 13.75(2) **DEFINITION.** A cross connection shall be defined as any physical connection or arrangement between two otherwise separate Systems, one of which contains potable water from the Village water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a

flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

- 13.75(3) PROHIBITED. (a) No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection.
- 13.75(3)(b) No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the Village may enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the water superintendent and by the Wisconsin Department of Natural Resources in accordance with Wis. Adm. Code Sec. NR 111.25(3).
- 13.75(4) INSPECTIONS. It shall be the duty of the water superintendent to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspection based on potential health hazards involved shall be as established by the water superintendent and as approved by the Wisconsin Department of Natural Resources.
- 13.75(5) RIGHT OF ACCESS. Upon presentation of credentials, the water superintendent shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the Village for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under §66.122, Wis. Stats. On request the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.
- 13.75(6) DISCONNECTION AND REFUSAL OF SERVICE. (a) Authorization. The water superintendent is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system.
- 13.75(6)(b) Notice and Hearing. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Ch. 68, Wis. Stats., except as provided in subs. (7). Water service to such property shall not be restored until the cross connection(s) has/have been eliminated in compliance with the provisions of this section.
- 13.75(7) NOTICE OF DISCONNECTION OF SERVICE: EMERGENCIES. If it is determined by the water superintendent that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action and a written finding to that effect is filed with the Village Clerk/Treasurer and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Ch. 68, Wis. Stats., within 10 days of such emergency discontinuance.
- 13.75(8) COMPATIBILITY WITH STATE PLUMBING CODE. This section does not supersede the State Plumbing Code, but is supplementary to it.

PRIVATE WELL ABANDONMENT

- 13.77 WELL ABANDONMENT AND WELL OPERATION PERMIT. Whereas, s. NR 810.16, Administrative Code, directs suppliers of water for municipal water systems to require the abandonment of all unused, unsafe or noncomplying wells located on the premises served by their systems, and to provide a permit system to allow retention of safe and code complying wells, by local ordinance or water utility rule, to eliminate sources of unsafe water and to prevent such wells from becoming channels for vertical movement of contaminated water and to eliminate all existing cross connections and prevent all future cross-connections.
- 13.77(1) **PURPOSE.** To protect public health, safety and welfare and to prevent contamination of groundwater by assuring that unused, unsafe or noncomplying wells or wells which may act as conduits for contamination of groundwater or wells which may be illegally cross connected to the municipal water system, are properly maintained or abandoned.
- 13.77(2) **APPLICABILITY.** This ordinance applies to all wells located on premises served by the Village of Lomira municipal water system. Utility customers outside the jurisdiction of the municipal system may be required under contract agreement or utility rule to adopt and enforce equivalent ordinances within their jurisdictions for purpose stated in Section 1 above.
- 13.77(3) **DEFINITIONS.** (a) “Municipal water systems” means a community water system owned by a city, village, county, town, town sanitary district, utility district, public inland lake and rehabilitation district, municipal water district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.
- 13.77(3)(b) “Noncomplying” means a well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.
- 13.77(3)(c) “Pump Installation” means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pit less adapters, pressure tanks, pits, sampling faucets and well seals or caps.
- 13.77(3)(d) “Unsafe” well or pump installation means one which produces water which is a bacteriologically contaminated or contaminated with substances which exceed the drinking water standards of chs. NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.
- 13.77(3)(e) “Unused” well or pump installation means one which is not used for does not have a functional pumping system.
- 13.77(3)(f) “Well” means a drill hole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface constructed for the purpose of obtaining groundwater.
- 13.77(3)(g) “Well abandonment” means the proper filling and sealing of a well according to the provisions of s. NR 812.26, Wisconsin Administrative Code.

- 13.77(4) ABANDONMENT REQUIRED. All wells on premises served by the municipal water system shall be properly abandoned in accordance with Section 6 of this ordinance by (date) or no later than (days) [90 days to 1 year] from the date of connection to the municipal water system, unless a valid well operation permit has been issued to the well owner by (municipality) under terms of Section 5 of this ordinance.
- 13.77(5) WELL OPERATION PERMIT. Owners of wells on premises served by the municipal water system wishing to retain their wells for any use shall make application for a well operation permit for each well no later than (days) [90 days to 1 year] after connection to the municipal water system. The (municipality) shall grant a permit to a well owner to operate a well for a period not to exceed 5 years providing all conditions of this section are met. A well operations permit may be renewed by submitting an application verifying that the conditions of this section are met. The (municipality) or its agent, may conduct inspections and water quality tests or require inspections and water quality tests to be conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the Clerk.

The following conditions must be met for issuance or renewal of a well operation permit:

- 13.77(5)(a) The well and pump installation shall meet the Standards for Existing installations described in s. NR 812.42, Wisconsin Administrative Code.
- 13.77(5)(b) The well and pump shall have a history of producing safe water evidenced by at least 1 coliform bacteria sample. In areas where the Department of Natural Resources has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical sampling may be required to document the safety of the water.
- 13.77(5)(c) There shall be no cross-connections between the well's pump installation or distribution piping and the municipal water system.
- 13.77(5)(d) The water from the private well shall not discharge into a drain leading directly to a public sewer utility unless properly metered and authorized by the sewer utility.
- 13.77(5)(e) The private well shall have a functional pumping system.
- 13.77(5)(f) The proposed use of the private well shall be justified as reasonable in addition to water provided by the municipal water system.
- 13.77(6) ABANDONMENT PROCEDURES. All wells abandoned under the jurisdiction of this ordinance shall be done according to the procedures and methods of s. NR 812.26, Wisconsin Administrative Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment. As of June 1, 2008, only licensed well drillers and pump installers may perform abandonment (filling and sealing) of wells.
- 13.77(6)(a) The owner of the well, or the owner's agent, may be required to obtain a well abandonment permit prior to any well abandonment and shall notify the Clerk at least 48 hours in advance of any well abandonment activities. The abandonment of the well may be observed or verified by personnel of the municipal system.

13.77(6)(b) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Clerk and the Department of Natural Resources within 30 days of the completion of the well abandonment.

- 13.77(7) PENALTIES. Any well owner violating any provisions of this ordinance **shall upon conviction be punished by forfeiture of not less than \$50.00** nor more than **\$500.00** and the cost of persecution. Each day of violation is a separate offense. If any person fails to comply with this ordinance for more than 30 days after receiving written notice of the violations, the municipality may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

Chapter 15

BUILDING CODE

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- 15.02 Purpose
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MOVING OF BUILDINGS

15.15	Moving of Buildings
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INTRODUCTION

- 15.01 TITLE. This Chapter shall be known and cited as “The Village of Lomira Building and Construction Code” and may also be known as the “Building Code.”
- 15.02 PURPOSE AND INTENT. This Chapter is adopted to facilitate enforcement of state and Village building, plumbing, electrical and other such codes, statutes or ordinances established for the protection of the health, and safety of the occupants of buildings within the Village; and, to establish construction and inspection procedures and regulations.
- 15.03 ABROGATION AND GREATER RESTRICTIONS. It is not the intent of this Chapter to repeal, annul, abrogate, impair or otherwise interfere with any existing permits, agreements, rules, regulations, ordinances, covenants, or deed restrictions previously adopted or issued pursuant to the law. The provisions of this Chapter shall govern wherever same imposes greater restrictions.
- 15.04 BUILDING PERMITS AND INSPECTION. (1) PERMIT(S) WHEN REQUIRED. No building or any part thereof shall hereafter be built, enlarged, altered or demolished within the Village of Lomira, or moved into, within, or out of the Village (except as hereinafter provided) unless a permit thereof shall first be obtained by the owner or his agent from the Village Building Inspector. Before a permit shall be issued under this chapter the contractor, owner or owner’s agent shall have paid any fees required for all necessary permits.
- 15.04(2) PLANS AND SPECIFICATIONS. All plans and specifications shall be prepared and submitted in conformance with the requirements of applicable state statutes and the applicable state, county and Village building codes.
- 15.04(3) The Board of the Village of Lomira hereby creates Chapter 15.04(3) regarding the adoption of additional Wisconsin Administrative Codes for the construction and inspection of one-and two-family dwellings, public buildings, places of employment, agricultural, campgrounds, manufactured home communities, public marinas, piers, docks and wharves, and recreational vehicle parks.

15.04(3)(a) Licenses, Certifications, & Registrations, WI Adm Code, SPS 305.

15.04(3)(b) Electrical Code, WI Admin. Code, Chapter SPS 316 in its entirety.

15.04(3)(c) Uniform Dwelling Code, WI Admin. Code, Chapters SPS 320-325.

15.04(3)(d) Camping Units, WI Admin. Code, Chapter SPS 327.

15.04(3)(e) Commercial Building Code, WI Admin. Code, Chapters SPS 361-366.

15.04(3)(f) Plumbing, WI Admin. Code, Chapters SPS 381-387.

15.05 PERMIT NOT NECESSARY FOR MINOR REPAIRS. This chapter shall not be construed to require a permit for any repairs or minor alterations which do not affect the use, area, structural strength, fire protection, exits, light, sanitation or ventilation of the building.

15.06 DUTY OF POLICE. It shall be the duty of all police officers to report at once to the Building Inspector any buildings at which building operations are being carried on without a building permit as required by this chapter.

ONE AND TWO-FAMILY DWELLING CODE

15.08 TITLE AND PURPOSE. (1) TITLE. This subchapter shall be known as the one-family and two-family dwelling code of the Village of Lomira. (rnfr. §15.04.010)

15.08(2) PURPOSE. The purpose and intent of this chapter is to: (a) Exercise jurisdiction over the construction and inspection of new one-family and two-family dwellings;

15.08(2)(b) Provide plan review and on-site inspections of one-family and two-family dwellings by inspectors certified by the department of industry, labor and human relations;

15.08(2)(c) Establish and collect fees to defray administrative and enforcement costs;

15.08(2)(d) Establish remedies and penalties for violations; and,

15.08(2)(e) Establish use of the Wisconsin uniform building permit as prescribed by the department of Commerce. (Ord. 139 §1, 1980, §15.04.010)

15.08(3) STATE UNIFORM DWELLING CODE ADOPTED. The administrative code provisions describing and defining requirements with respect to one-family and two-family dwellings in Chs. ILHR 20-25 of the Wisconsin Administrative Code, whose effective dates are generally June 1, 1980, are adopted and by reference made a part of this chapter with the same force and effect as if fully set forth herein. Any act required to be performed or prohibited by an administrative code provision incorporated herein by reference is required or prohibited by this subchapter provided that said administrative code provision shall be applicable to one-family and two-family dwellings, the construction of which has been commenced on or after the effective date of this subchapter and provided further that one-family and two-family dwellings, the

construction of which was completed prior to the effective date of this subchapter or which construction was commenced prior to the effective date of the ordinance codified in this chapter shall not be subject to the requirements set forth in the aforementioned chapter of the Wisconsin Administrative Code.

15.08(3)(a) Effect of Changes. Any future amendments, revisions or modifications of the administrative code provisions incorporated herein are intended to be made part of this subchapter to secure uniform statewide regulation of one-family and two-family dwellings in this Village of the state of Wisconsin.

15.08(3)(b) Copies Available. A copy of these administrative code provisions and any future amendments shall be kept in the office of the Village Clerk/Treasurer. (Ord. 139 §2, 1980 m. fr. §15.04.020)

15.08(4) DEFINITIONS. (a) “Addition” means new construction performed on a dwelling which increases the outside dimensions of the dwelling.

15.08(4)(b) “Alteration” means a substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

15.08(4)(c) “Department” means the department of industry, labor and human relations.

15.08(4)(d) “Dwelling” means: 1. Any building, the initial construction of which is commenced on or after the effective date of the ordinance codified in this chapter, which contains one or two dwelling units, or

15.08(4)(d)2. An existing structure, or that part of an existing structure, which is used or intended to be used as a one-family or two-family dwelling.

15.08(4)(e) “Minor Repair” means repair performed for maintenance or replacement purposes on any existing one-family or two-family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection, or exterior aesthetic appearance, and which does not increase a given occupancy and use.

15.08(4)(f) “One-family or two-family dwelling” means a building structure which contains one or two separate households intended to be used as a home, residence or sleeping place by an individual or by two or more individuals maintaining a common household, to the exclusion of all others.

15.08(4)(g) “Person” means an individual, partnership, firm or corporation.

15.08(4)(h) “Uniform Dwelling Code” means those administrative code provisions, and any future amendments, revisions or modifications thereto, contained in following chapters of the Wisconsin Administrative Code:

15.08(4)(h)1. Wis. Adm. Code Ch. Comm 20, Administrative and Enforcement;

15.08(4)(h)2. Wis. Adm. Code Ch. Comm 21, Construction Standards;

15.08(4)(h)3. Wis. Adm. Code Ch. Comm 22, Energy Conservation Standards;

15.08(4)(h)4. Wis. Adm. Code Ch. Comm 23, Heating, Ventilating and Air Conditioning Standards;

15.08(4)(h)5. Wis. Adm. Code Ch. Comm 24, Electrical Standards;

15.08(4)(h)6. Wis. Adm. Code Ch. Comm 25, Plumbing and Potable Water Standards.
(Ord. 39 §3, 1980, m. fr. §15.04.030)

15.08(5) METHOD OF ENFORCEMENT. For the purpose of administering and enforcing the provisions of this chapter and the Uniform Dwelling Code, the Village shall establish the office of Building Inspector which shall be filled by that method prescribed under subs. (6). (Ord. 139 §4, 1980, re. fr. §15.04.040)

15.08(6) BUILDING INSPECTOR. (a) Creation and Appointment. There is created the office of Village Building Inspector. The Building Inspector shall be appointed by the Village President subject to confirmation by the Village Board. The Building Inspector shall be certified for inspection purposes by the Department of Commerce in each of the categories specified under Wis. Adm. Code Ch. 26.06, and by the Department of Health and Family Services in the category of plumbing.

15.08(6)(b) Subordinates. The Building Inspector may appoint, as necessary, subordinates, which appointments shall be subject to confirmation by the board. Any subordinate hired to inspect buildings shall be certified under Wis. Adm. Code Ch. 26, by the Department of Commerce.

15.08(6)(c) Duties. The Building Inspector shall administer and enforce all provisions of this subchapter and the Uniform Dwelling Code.

15.08(6)(d) Powers. The Building Inspector or an authorized certified agent may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the Building Inspector or his/her agent while in the performance of his/her duties.

15.08(6)(e) Records. The Building Inspector shall perform all administrative tasks required by the Department of Commerce under the Uniform Dwelling Code; shall keep a record of all applications for building permits in a book for such purpose and shall regularly number each permit in the order of its issue; shall keep a record showing the number, description and size of all buildings erected indicating the kind of materials used and the cost of each building and aggregate cost of all one-family and two-family dwellings; and, shall make a written annual report to the Village Board relative to these matters. (Ord. 139 §5, 1980, m. fr. §15.04.050)

15.08(7) BUILDING PERMITS. (a) Building Permits Required. No one-family or two-family dwelling, the initial construction of which shall be commenced after June 1, 1980, shall be built, enlarged, altered or repaired unless a building permit for that work has first been obtained by the owner from the Building Inspector. Application for a building permit shall be made in writing upon that form, designated as the Wisconsin Uniform Dwelling Permit Application, as furnished by the Department of Commerce.

15.08(7)(b) Repairs and Additions Requiring Permit. No addition, alteration or repair to a one-family or two-family dwelling, the construction of which was commenced prior to

the effective date of this chapter or the construction of which was completed prior to the effective date of this chapter shall be undertaken unless a building permit for this work has first been obtained by the owner from the Building Inspector. Building permits are required for all construction, alteration, addition or repair, except for roofing and painting.

15.08(7)(c) Submission of Plans. The applicant who desires to construct a new one-family or two-family dwelling or the applicant who desires to construct an addition, alteration or repair to an existing one-family or two-family dwelling, shall submit two sets of plans at the time that the building permit application is filed.

15.08(7)(d) Permit Procedures. 1. Applications. With respect to all applications for the initial construction of a dwelling, if the Building Inspector finds that the proposed dwelling complies with all Village ordinances and the Uniform Dwelling Code, the Inspector shall issue the permit.

15.08(7)(d)1m. Additions, Alterations and Repairs to Existing One-family and Two-family Dwellings. If the Building Inspector finds that the proposed repair, alteration or addition complies with all Village ordinances, the inspector shall officially approve the application and a building permit shall subsequently be issued to the applicant.

15.08(7)(d)2. Posting of Permits. The issued building permit shall be posted in a conspicuous place at the building site. A copy of any issued building permit shall be kept on file with the Building Inspector and Village Clerk/Treasurer. (Ord. 139 §6, 1980, m. fr. §15.04.060)

15.08(8) **FEES FOR BUILDING PERMITS.** At the time the application for a building permit is filed, the applicant shall pay a fee in accordance with schedules to be adopted, from time to time, by the Village Board. (m. fr. §15.04.070, as am. by ORD. 232, 1/7/98)

15.08(9) **ADMINISTRATION AND ENFORCEMENT—TIME LIMITATIONS.** (a) Six months. The building permit shall become void unless visible on-site construction is commenced within six months from the date of issuance of the permit, or if the building or work is suspended any time after work is commenced for a period of 30 days. The period of time may be extended by the building inspector if the delay was due to conditions beyond the control of the applicant. All permits granted under the terms of this division shall be valid for only 12 months, unless otherwise so regulated by the Wisconsin Administrative Code.

15.08(9)(b) New Permit. Before any on-site work or construction is commenced after the permit has lapsed, a new permit shall be issued and a new fee paid. The cost of the new permit will be double the price of the original permit. In all cases, all construction shall be completed within 18 months from the date of issuance. (Ord. §261, 2008)

15.08(10) **APPEALS.** Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply (see §§18.45(4) through (8), of this Code). (Ord. 139 §9, 1980, m. fr. §15.04.080)

15.09 **LIABILITY FOR DAMAGES.** This chapter shall not be construed as an assumption of liability by the Village for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment. (Ord. 139 §10, 1980, m. fr. §15.04.090)

- 15.10 **VIOLATION AND PENALTIES.** (1) **VIOLATION.** No person shall erect, use, occupy or maintain any one-family or two-family dwelling in violation of any provision of this chapter or the Uniform Dwelling Code or cause to permit any such violation to be committed. Any person convicted of a violation of this provision shall be guilty of a misdemeanor subject to the penalties set forth in §25.04 of this Code. (m. fr. §15.04.100)
- 15.10(2) **NOTICE OF NONCOMPLIANCE.** If an inspection reveals a noncompliance with this chapter or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the owner, in writing, of the violation(s) to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted pursuant to Wis. Adm. Code, Ch. Comm 20.10(1)(c).
- 15.10(3) **STOP WORK ORDER.** If, after written notification, the violation is not corrected within 30 days, a stop work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.
- 15.10(4) **SEPARATE VIOLATION(S)** Each day each violation exists or continues after the 30-day written notice period has run shall constitute a separate offense. Nothing in this chapter shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter or the Uniform Dwelling Code.
- 15.10(5) **NO PERMIT PENALTY.** If any construction or work governed by the provisions of this chapter or the Uniform Dwelling Code is commenced prior to the issuance of a permit, the original Building Permit Fee and increased Administration Fee, amount determined by the Village Board, will be charged as a penalty. (Ord. 139 §8, 1980, m. fr. §15.04.100)

PLUMBING CODE

- 15.11 **VILLAGE PLUMBING CODE.** (1) **WISCONSIN STATUTES.** All plumbing within the Village shall be regulated by Ch. 145, Wis. Stats.
- 15.11(2) **ADMINISTRATIVE RULES.** The Wisconsin State Plumbing Code as set forth in the latest official published edition of the Wisconsin Administrative Code is adopted and by reference made a part of this chapter with the same force and effect as though set out in full as the plumbing code for the Village. (m. fr. §15.08.010)

COMMERCIAL BUILDING CODE

- 15.12 **COMMERCIAL BUILDING CODE.** (1) **TITLE AND PURPOSE.** (a) **Title.** This section shall be known as the “Commercial Building Code of the Village” of Lomira.
- 15.12(1)(b) **Purpose.** The purpose and intent of this section is to: 1. Establish a commercial building permit system, and to establish a fee schedule to defray administrative costs.
- 15.12(1)(b)2. Provide for the enforcement of the Village Zoning code and other ordinances affecting commercial development of the Village by the Plan Commission, Village Board and Building Inspector.
- 15.12(1)(b)3. Establish remedies and penalties for violations. (Ord. 146, 1981, m. fr. §15.12.010)

- 15.12(2) DEFINITIONS. (a) Commercial Building. Commercial Building means a building structure intended for commercial, industrial, agricultural, or institutional use. It shall also include multi-unit residential structures of three or more units.
- 15.12(2)(b) Addition – construction on a building which increases its exterior dimensions.
- 15.12(2)(c) Alteration – a substantial change in a building structure, other than repairs or additions. (Ord. 146, 1981, rn. fr. §15.12.020)
- 15.12(3) BUILDING PERMITS. Construction shall not commence on any commercial building, addition, alteration or repair prior to the issuance of a building permit by the Building Inspector.
- 15.12(3)(a) Application Required. Application for building permits for additions to or construction of commercial buildings shall be made by the owner to the Building Inspector on forms provided for that purpose.
- 15.12(3)(b) Plan Commission. The application under par. (a) shall be provided at least one week prior to the Plan Commission meeting at which the applicant wishes the permit to be considered.
- 15.12(3)(c) Plans Required. The Building Inspector may require the submission of 2 sets of plans for the proposed construction and any other pertinent information.
- 15.12(3)(d) Issuance Procedures. After examination and review of the application and plans, the Plan Commission shall make its recommendation to the Village Board for said Board's approval. If the Village Board approves the application, the Building Inspector shall issue the permit.
- 15.12(3)(e) State Permit(s). Nothing in this section shall be construed as releasing the owner from obtaining a state building permit. (Ord. 146, 1981, rn. fr. §15.12.030)
- 15.12(4) VILLAGE PERMIT FEE SCHEDULE. Fees for commercial building permits shall be as adopted by the Village Board. (a) Administrative Fee. A \$5 fee, payable to the Village of Lomira, is in addition to the Building Permit Fee. The Administration Fee can be adjusted, as determined by the Board, to define the penalty for work commenced before obtaining a Building Permit. See Sec. 15.12(6).
- 15.12(4m) MULTI-FAMILY RESIDENTIAL PARK IMPACT FEE. A fee of \$100 per unit will be collected before the issuance of a building permit for any multi-family residential building of 3 units or greater. The fees collected shall be put into a special fund to be used solely for the acquisition of, or improvement to, new or existing parks. (Ord. 209, 1993, cr. §15.12.035)
- 15.12(5) POWERS AND DUTIES OF THE BUILDING INSPECTOR. The Building Inspector shall be empowered to enter onto any private or public premises during the reasonable hours to enforce Village ordinances applicable to commercial construction. (Ord. 146, 1981, rn. fr. §15.12.040)
- 15.12(6) VIOLATIONS AND PENALTIES. Any person, firm or corporation who violates any of the provisions of this subchapter shall be subject to prosecution under §25.04 of this

code. If any construction work is commenced prior to obtaining a permit, the original Building Permit Fee and an increased Administration Fee, amount determined by the Village Board, will be charged as a penalty.

UNSAFE BUILDING

- 15.13 UNSAFE BUILDINGS. (1) ORDER TO RAZE AND REMOVE. Whenever the Building Inspector finds any building or part thereof, within the Village to be, in the Building Inspector's judgment, so old, dilapidated or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, the Building Inspector shall, with the approval of the Village board, order the owner to raze and remove same at the owner's expense.

15.13(1)(a) Such order and proceedings shall be carried out in the manner prescribed for the razing of buildings in §66.05(2)(a), Wis. Stats.

15.13(1)(b) Where the public safety requires immediate action the Building Inspector shall enter upon the premises with such assistance as may be necessary, and cause the building or structure to be made safe or to be removed, and the expense of such work may be recovered by the Village in an action against the owner or tenant. (m. fr. §15.17.010 cr. by Ord. 205, 1993)

15.13(1)(c) If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: **"This Building Cannot Be Used for Human Habitation, Occupancy or Use"**. And it is the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made.

- 15.13(2) VIOLATIONS AND PENALTY. (a) Any person, firm or corporation who violates any provision of this section shall be subject to prosecution under §25.04 of this Code.

15.13(2)(b) Any person who rents, leases or occupies a building which has been condemned for human habitation, occupancy or use shall be fined not less than \$5 nor more than \$50 or imprisoned not more than 30 days for each week of such violation, or both.

15.13(2)(c) The Building Inspector shall be empowered to issue citations for violations of this section. (m. fr. §15.17.030 cr. by Ord. 205, 1993)

BUILDING OCCUPANCY

- 15.14 BUILDING OCCUPANCY. (1) OCCUPANCY CONDITIONS. No person, firm, or corporation shall occupy any new dwelling or building, or any building which is substantially remodeled or renovated so as to change its use, without first receiving an occupancy permit.

- 15.14(2) PERMIT REQUIRED. In determining whether to issue an occupancy permit for a specific project, the Building Inspector shall verify that the following requirements have been met:

15.14(2)(a) That building plan reviews have been favorably completed and all zoning regulations and conditions of zoning or building permits have been complied with.

15.14(2)(b) That all applicable building systems, including but not limited to electrical, plumbing, heating, ventilating, fire alarms, smoke detectors, exit lights, and emergency lighting are in proper working order so as to protect the health and safety of the occupants.

15.14(2)(c) That construction of the building is substantially complete, so as to provide safety features such as guardrails, handrails, proper exit doors, hallways, and stairs, building security, required fire separation, natural light, and natural ventilation. Surplus construction materials shall be removed from fire exit passageways.

15.14(2)(d) In the case of buildings regulated by Wisconsin Administrative Code Comm 50 to 64, the final inspection shall be conducted by the state Building Inspector prior to occupancy.

15.14(2)(e) Exterior work, including sidewalks, paving of parking areas, and landscaping shall be completed prior to occupancy. If the season of the year prevents completion of exterior work, the Building Inspector may require that the property owner or builder maintain the premises in as good a condition as possible until the work can be completed. In such cases the Building Inspector shall establish a reasonable deadline for the completion of exterior work, and the property owner or builder shall deposit funds in an amount acceptable to the Building Inspector in an escrow account with the Village, which escrow account shall not be released until the work is completed.

15.14(2)(f) Larger buildings may be granted occupancy in sections, but non-construction personnel shall be effectively barred from entering the portion of the building under construction, and there shall be no interruption in the proper functioning of building systems in the occupied section due to work in the un-occupied section. (m. fr. Ord. 202, 1992, §15.16.010)

15.14(3) VIOLATION AND PENALTY. Any person, firm, or corporation who violates any of the provisions of this section shall be subject to prosecution under §25.04, of this Code. The Building Inspector shall be empowered to issue citations for violations of this chapter. (m. fr. Ord. 202, 1992, §15.16.020)

MOVING OF BUILDINGS

15.15 MOVING OF BUILDINGS. (1) APPLICATION. Any building moved into, or from one location to another, within the Village of Lomira, shall first be presented to the Planning and Zoning Committee and then approved by the Village Board. Any building(s) that are being moved must have been built since 1980. (Amended Ord. 252, 2005)

15.15(1)(a) Application must be made to the Village Board with sufficient time allowed for inspection by the local assessor, who shall then place a market value on any building which is to be considered a dwelling.

15.15(1)(b) The assessor's fee for the appraisal shall be paid by the applicant.

1515(1)(c) Any building which is to be used as a dwelling must have an appraised value of at least \$75,000, as determined by the Village of Lomira assessor, and have not less than 1400 sq. ft. living area.

15.15(1)(d) For purposes of this section, a dwelling is defined to mean a detached building designed for and to be occupied exclusively for family living.

15.15(2) PERMITS AND REGULATION FOR MOVING OF BUILDINGS. No building shall be moved into, through or out of the Village of Lomira, without a permit had and obtained from the Village clerk/Treasurer or the Clerk/Treasurer's designee.

15.15(2)(a) The moving of a building shall be continuous during all hours of the day, and day by day, and at night if the permit issued so directs until completed, with the least possible obstruction to thoroughfares.

15.15(2)(b) No building shall be allowed to remain overnight upon any street crossing or intersection. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.

15.15(2)(c) Every permit to move a building shall state all conditions to be complied with, designate the route to be taken, and limit the time for moving.

15.15(3) BOND, SURETY REQUIRED. In case of the moving of a building out or through the Village, the provisions of this section relating to a type of construction may be omitted.

15.15(3)(a) Before a permit is issued to move any building over any public way, the party applying therefore shall give a bond to the Village of Lomira in the sum to be fixed by the Village Board, which shall be not less than \$1,000, with a corporate surety or two personal sureties to be approved by the Village Board conditioned among other things upon indemnification to the Village of Lomira for the costs and expenses incurred by the Village in connection therewith, arising out of the moving of the building for which the permit issued.

15.15(3)(b) The Village Clerk/Treasurer shall require in addition to said bond, public liability insurance with a provision for the coverage for injury to one person in a sum of not less than \$100,000 and for one accident in the amount of \$200,000 together with property damages of not less than \$50,000.

15.15(4) SITE OF RELOCATION. Upon approval of the dwelling, the dwelling shall be placed on a permanent enclosed foundation constructed of poured concrete, cement or cinder blocks with vents and access for maintenance.

15.15(4)(a) Said dwelling shall be placed on a permanent foundation within 30 days of approval.

15.15(4)(b) Any building moved within the Village of Lomira which is to be used for business purposes shall be of fireproof construction.

15.15(4)(c) This section is in addition to any applicable sections of the Village Zoning Code. (See Ch. 18, Village Zoning Code)

- 15.15(5) **MOVER TO REPAIR DAMAGED STREETS.** (a) Every person receiving a permit to move a building into or within the Village of Lomira shall within one day after said building reaches its destination report same to the Village Clerk/Treasurer.
- 15.15(5)(b) Every person receiving a permit to move a building through or out of the Village of Lomira shall, within 1 day after said building leaves the Village limits, report same to the Village Clerk/Treasurer.
- 15.15(5)(c) Upon receipt of any report as aforesaid, the Village Clerk/Treasurer or Clerk/Treasurer's designee, shall inspect the streets over which said building has been moved and ascertain their condition.
- 15.15(5)(c)1. If the moving of said building has caused any damage to the streets, the house mover shall forthwith place them in as good repair as they were before the permit was granted.
- 15.15(5)(c)2. Upon the failure of the house mover to do so within 10 days thereafter, to the satisfaction of the Village Board, the Village Board shall cause the repair of such damage to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of the same.
- 15.15(6) **ENFORCEMENT AND PENALTY.** Any person, firm or corporation who violates, disobeys, neglects, omits, or refuses to comply with, or who resists the enforcement of any of the provisions of this section, shall pay a forfeiture of not less than \$10 nor more than \$200, together with the costs of prosecution, or by imprisonment in the county jail of Dodge County for a term of not more than 30 days and every day of violating shall constitute a separate offense.
- 15.20 **VIOLATION AND PENALTIES.** (1) **VIOLATION.** It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, demolish, convert, equipment use or occupy, or maintain any building in the Village of Lomira in violation of any or all of the provisions of this chapter, or to cause, permit or aid and abet the same to be done.
- 15.20(2) **OTHER ENFORCEMENT REMEDIES AND PENALTIES.** Any building erected, constructed or reconstructed in violation of this Chapter or regulations adopted pursuant thereto shall be deemed an unlawful structure, and the Village Building Inspector or Village attorney or other official designated by the Village Board may bring action to enjoin such erection, construction or reconstruction, or cause such structure to be vacated or removed. It shall be unlawful to erect, construct or reconstruct any building or structure in violation of this chapter or regulations adopted pursuant thereto. Any person, firm or corporation violating such provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500. Each and every day during which said illegal erection, construction or reconstruction continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed or reconstructed, or any land is or is proposed to be used in violation of this chapter or regulations adopted pursuant thereto, the Building Inspector or the Village attorney or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent or enjoin or abate or remove such unlawful erection, construction or reconstruction.

Chapter 16

MOBILES HOME AND PARKS

16.01	Purpose and Intent
16.02	Definitions
16.03	Adoption of Designated State Statute
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16.06	Mobile Home Park License
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- 16.01 PURPOSE AND INTENT. (1) PURPOSE. The purpose of this Chapter is to protect and promote the public health, morals and welfare and to equitably defray the cost of municipal and educational services required by persons and families using or occupying trailers, mobile homes, trailer camps or mobile home parks for living, dwelling or sleeping purposes in the Village of Lomira.
- 16.01(2) INTENT. It is the intent of this Chapter to establish and enforce reasonable standards and regulations for every trailer and trailer camp and every mobile home and mobile home park; require an annual license fee to operate the same and levy and collect special assessments to defray the cost of municipal and education services furnished to such trailer and trailer camp, or mobile home and mobile home park.
- 16.01(2)(a) The Village Board, may limit the number of units, trailers or mobile homes that may be parked or kept in any one camp or park, and limit the number of licenses for trailer camps or parks in Village, if the mobile housing development would cause the Lomira School District school costs to increase above the state average or if an exceedingly difficult or impossible situation exists with regard to providing adequate and proper sewage disposal in any particular area.
- 16.01(2)(b) The authority and powers conferred upon the Village in and by this Chapter and §66.058, Wis. Stats., are in addition to all other grants and shall be deemed limited only by express language.
- 16.02 DEFINITIONS. Whenever used in this Chapter, unless a different meaning appears from the context, the following words and phrases shall have the meaning as provided:
- 16.02(1) “Dependent mobile home” means a mobile home which does not have complete bathroom facilities.
- 16.02(2) “Licensee” means any person licensed to operate and maintain a mobile home park under this section.
- 16.02(3) “Licensing authority” means the city, town or village wherein a mobile home park is located.

- 16.02(4) “Mobile home” is that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; includes any additions, attachments, annexes, foundations and appurtenances.
- 16.02(5) “Manufactured home” means either of the following: (a) A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.
- 16.02(5)(b) A structure which meets all the requirements of par. (a) except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC 5401 to 5425.
- 16.02(6) “Mobile home park” means any plot or plots of ground upon which 2 or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.
- 16.02(7) “Nondependent mobile home” means a mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year-round facilities.
- 16.02(8) “Park” means mobile home park.
- 16.02(9) “Person” means any natural individual, firm, trust, partnership, association, corporation or limited liability company.
- 16.02(10) “Space” means a plot of ground within a mobile home park, designed for the accommodation of one mobile home unit.
- 16.02(11) “Unit” means a mobile home unit. (recr. fr. Ord. 106, sec. 1, 19709; Amended Ord. 176, 1985, and §16.04.010)
- 16.03 ADOPTION OF DESIGNATED STATE STATUTE. The provisions of §66.058 Wis. Stats., and any successors, are hereby adopted as and for the general regulations of the Village and applicable therein. (Ord. 106, sec. 2, 1970, and §16.04.020)
- 16.04 LOCATION OUTSIDE MOBILE HOME PARK. Repealed with recodification.
- 16.06 MOBILE HOME PARK LICENSE. (1) REQUIRED. It shall be unlawful for any person to establish, maintain or operate, or permit to be established, maintained or operated, upon any property owned, or leased, or controlled by him/her, within the limits of the Village, any mobile home park unless such person shall first obtain from the Village a license therefor pursuant to this Chapter. Such license shall be for one year from date of issuance, and may be renewed annually thereafter in accordance with the provisions of this Chapter. (recr. fr. §16.04.060, 1985)
- 16.06(1)(a) All such parks in existence on August 9, 1953 shall within 90 days thereafter, obtain such license, and in all other respects comply fully with the requirements of this section except that the licensing authority shall upon application of a park operator, waive

such requirements that require prohibitive reconstruction costs if such waiver does not affect sanitation requirements of the Village or create or permit to continue any hazard to the welfare and health of the community and the occupants of the park.

16.06(1)(b) The Village Board shall be required to approve of any license for a mobile home park before any such park may be established, operated or maintained. The Village Clerk/Treasurer shall be the issuing agent for those park licenses approved by the Village Board.

16.06(2) APPLICATION PROCEDURES. (a) Application for license. The original or renewal application for mobile home park license shall be filed with the Village Clerk/Treasurer. Applications shall be in writing, signed by the applicant and shall contain the following:

16.06(2)(a)1. The name and address of the applicant.

16.06(2)(a)2. The name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by said person to construct or maintain the mobile home park and make the application.

16.06(2)(a)3. The location and legal description of the mobile home park.

16.06(2)(a)4. The original application for a license hereunder shall be accompanied by 2 copies of the complete park plan, prepared by a registered engineer, showing the following, either the existing or as proposed.

16.06(2)(a)4.a The extent and area used for mobile home purposes;

16.06(2)(a)4.b Roadways and driveways;

16.06(2)(a)4.c Location of designated mobile home spaces and the size of each space or lot;

16.06(2)(a)4.d Method and plan of sewage disposal;

16.06(2)(a)4.e Method and plan of garbage removal;

16.06(2)(a)4.f Plan for water supply;

16.06(2)(a)4.g Plan for electrical lighting of units.

16.06(2)(b) Plans to Meet Village and State Regulations. Accompanying, and to be filed with an original application for a mobile home park, shall be plans and specifications which shall be in compliance with all applicable Village ordinances and provisions of the department of health and family services. The Clerk/Treasurer after approval of the application by the Village Board and upon completion of the work according to the plans shall issue the license. A mobile housing development harboring only nondependent mobile homes as defined in §16.02(7), shall not be required to provide a service building.

16.06(2)(c) Annual Filing. The application for an annual park license or the renewal thereof shall be filed with the Village Clerk/Treasurer and shall be accompanied by the fee as is established in accordance with this subsection.

16.06(2)(d) Renewal. Upon application by any licensee and after approval by the Village Board and upon payment of the annual license fee, the Village Clerk/Treasurer shall issue a certificate renewing the license for another year, unless sooner revoked. The application for renewal shall be in writing, signed by the applicant on forms furnished by Village.

16.06(2)(e) License and Monthly Mobile Home Fees. 1. Annual License Fee. In accordance with §66.058(3)(a), Wis. Stats., the Village Board shall establish, by resolution or ordinance, an annual license fee of \$3 per space or fraction thereof within each mobile home park within the Village limits, except that where the park lies in more than one municipality the amount of the license fee shall be such fraction thereof as the number of spaces in the park in the municipality bears to the entire number of spaces in the park. Fees as established hereunder and any future amendments thereto, are hereby adopted and by reference are made a part of this subdivision as if fully set forth herein.

16.06(2)(e)2. Transfer Fee. A Fee of \$10 shall be paid for each transfer of a license. The license and/or the transfer of a license shall be issued after the Village Board's approval.

16.07 MONTHLY PARKING PERMIT FEE. (1) ESTABLISHED. In addition to the license fee provided in §16.06(2)(e)1 and 2, the Village Board shall collect from each mobile home occupying space or lots in a park in the Village, except from mobile homes that constitute improvements to real property under §70.043(1), Wis. Stats., and from recreational mobile homes and camping trailers as defined in §70.111(19), Wis. Stats., a monthly parking permit fee computed as follows:

16.07(1)(a) On January 1, the assessor shall determine the total fair market value of each mobile home in the taxation district subject to the monthly parking permit fee.

16.07(1)(b) The fair market value, determined under par. (a), minus the tax-exempt household furnishings thus established, shall be equated to the general level of assessment for the prior year on other real and personal property in the district.

16.07(1)(c) The value of each mobile home, determined under par. (b), shall be multiplied by the general property gross tax rate, less any credit rate for the property tax relief credit, established on the preceding year's assessment of general property.

16.07(1)(d) The total annual parking permit fee, computed under par. (c), shall be divided by 12 and shall represent the monthly mobile home parking permit fee.

16.07(2) ADDITION OF MOBILE HOME TO A PARK. (a) The monthly parking permit fee shall be applicable to mobile homes moving into the tax district any time during the year. The park operator shall furnish information to the Village Clerk/Treasurer and the assessor on mobile homes added to the park within 5 days after their arrival, on forms prescribed by the department of revenue. As soon as the assessor receives the notice of an addition of a mobile home to a park, the assessor shall determine its fair market value and notify the Village Clerk/Treasurer of that determination. The Village Clerk/Treasurer shall equate the fair market value established by the assessor and shall apply the appropriate tax rate, divide the annual parking permit fee thus determined by 12 and notify the mobile home owner of the monthly fee to be collected from the mobile home owner. Liability for payment of the fee shall begin on the first day of the next succeeding month and shall remain on the mobile home only for such months as the mobile home remains in the tax district.

16.07(2)(b) The monthly parking permit fee shall be paid by the mobile home owner to the Village Clerk/Treasurer on or before the 10th of the month following the month for which such parking permit fee is due.

16.07(2)(c) The licensee of a park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner and occupant thereof.

16.07(3) EXCEPTION. No monthly parking permit fee shall be imposed for any space occupied by a mobile home accompanied by an automobile for an accumulating period not to exceed 60 days in any 12 months if the occupants of the mobile home are tourists or vacationists. Exemption certificates in duplicate shall be accepted by the Village Clerk/Treasurer from qualified tourists or vacationists in lieu of monthly mobile home parking permit fees.

16.07(4) MOBILE HOME LOCATED OUTSIDE OF LICENSED PARK. Repealed by?

16.08 INSPECTION BY VILLAGE. (1) VILLAGE OFFICIALS. No mobile home park license, or permit for location outside of a mobile home park shall be issued until the Village Clerk/Treasurer shall have notified the Village Chief of Police, health officer, Chief of the Fire Department and the building inspector, or their authorized agent(s) of such application.

16.08(2) PROCEDURE. (a) The officials named in subs. (1) shall inspect or cause to be inspected each applicant, application and the affected premises to determine whether the applicant, application and the premises upon which the mobile home(s) will be located comply with the laws, ordinances and regulations of the Wisconsin Division of Health, Wisconsin Department of Commerce and the Village of Lomira.

16.08(2)(b) The officials named in subs. (1) shall furnish to the Village Board a written report containing the information obtained from such investigations required under this section. The report shall include a statement as to whether the applicant, application and premises meet the requirements of the department(s) for which said official is certifying.

16.08(2)(c) No license shall be renewed without reinspection of the premises.

16.08(2)(d) For the purpose of making inspections and securing enforcement, subs. (1) officials or their authorized agents, shall have the right and are empowered to enter any premises on which a mobile home is located, or about to be located, and to inspect same and all accommodations connected therewith at any reasonable time. (recr. fr. §16.04.090, 1985)

16.10 PARK LOCATION AND CONSTRUCTION REGULATED. (1) PURPOSE AND INTENT. This section is adopted to promote the health, safety, prosperity, aesthetics and general welfare of the people within the Village to regulate the location of trailers, mobile homes, trailer camps or mobile home parks for living, dwelling or sleeping purposes; and to regulate the construction, installation, alteration, design and use of trailer camps or mobile home parks including water supply, sewage disposal, site drainage, waste and garbage disposal and connection to utilities so as to protect the health of residents; to secure safety from disease and pestilence; and, to preserve and promote the general beauty of the Village. (See also Chs. 8, 9, 12, 13, 15 and 18, of this Code)

- 16.10(2) LOCATION. A mobile home or manufactured home located within the limits of a mobile home park shall be located not less than 32 feet from the back of the curb, nor closer than 12 feet from the side lot on the lot on which same is located. (recr. fr. §16.04.110)
- 16.10(3) PARK SPACE(S) DESIGNATED. (a) Parking or Placement. No mobile home or manufactured home unit shall be parked in a park outside of its designated space. Only 1 mobile home or manufactured home unit shall be placed in each space. (recr. fr. §16.04.120)
- 16.10(3)(b) Lot Space Requirements. Spaces shall be clearly defined and shall consist of a minimum of 75,000 square feet. and a width of not less than 65 feet. Said space(s) shall provide for a minimum space suitable for parking 2 automobiles as and for off street parking. (See also §18.34, of this Code) (recr. fr. §16.04.140, partial)
- 16.10(3)(c) Unit Living Space Requirements. No mobile home shall be located within a mobile home park unless the same has at least a minimum of 672 square feet of living space. (recr. fr. §16.04.150)
- 16.10(4) SPACE(S) AND STREETS. The park shall be so arranged that all spaces shall face or abut on a roadway of not less than 36 feet in width, back-to-back of curbing giving easy access from all units to a public street. Such roadway shall be paved with asphalt or concrete and maintained in good condition, having natural drainage, be well lighted at night or in darkness, and shall not be obstructed. The development shall include a 5 foot terrace and a 5 foot sidewalk along each street. (recr. fr. §16.04.140, partial)
- 16.10(5) SANITARY SEWER. No mobile home park shall be laid out or constructed unless there is available municipal water and sanitary sewer facilities thereto. In no case shall any wastewater be thrown or discharged upon the surface of the ground. (See also Ch. 13, of this Code) (recr. fr. §16.04.110)
- 16.10(6) SITE DRAINAGE. Every mobile home, manufactured home or mobile home park shall be located on a well drained area, and the premises shall be properly graded so as to prevent the accumulation of storm water or other waters. No mobile home, manufactured home or mobile home park shall be located in any area that is situated so that the drainage from any barnyard, outdoor toilet or other source of filth can be deposited in its location. (recr. fr. §16.04.130)
- 16.10(7) WATER SUPPLY REQUIREMENTS. Individual water service connections provided for direct use of a nondependent mobile home shall be so constructed that they will not be damaged by the parking of such mobile homes. Such systems shall be connected to the Village water supply and shall be designed and installed in accordance with the Wisconsin State Plumbing Code and §15.11, of this Code. (recr. fr. §16.04.180)
- 16.10(8) SEWER CONNECTION REQUIREMENTS. Every space designated to serve a nondependent unit shall be provided with sewer connections which shall comply with the requirements of the State Plumbing Code and §13.52, of this Code. The sewer connections shall be provided with suitable fittings so that watertight connections are made. Such connections shall be so constructed so that they may be closed when not connected and trapped in such a manner as to be maintained in an odor-free condition. (recr. fr. §16.04.100)
- 16.10(9) WASTE AND GARBAGE DISPOSAL. Residents of mobile home parks shall comply with all Village regulations relating to the collection and disposal of garbage, refuse and solid waste. (See also Ch.8, of this Code) (recr. fr. §16.04.200)

- 16.10(10) ELECTRICAL SERVICE AND OUTLETS. Every space shall be furnished with electrical service. Such service shall be equipped with an externally operated switch or fuse with a capacity of not less than 100 amperes and a heavy duty outlet receptacle, being not less than 220 volts. (recr. fr. §16.04.160)
- 16.10(10)(a) Electrical outlets shall be waterproof.
- 16.10(10)(b) There shall be no above-ground power lines. Power lines shall be installed underground and shall be installed in accordance with State law and National Electrical Code. (recr. fr. §16.04.160)
- 16.11 APPLICABILITY OF PLUMBING, ELECTRICAL, BUILDING AND HEALTH CODES. All plumbing, electrical, building and other work on or at any park licensed under this Chapter shall be in accordance with applicable Village ordinances and the requirements of the State plumbing, electrical, building, health and sanitation codes and statutes. Residents of a mobile home park shall be required to obtain a building permit from the building inspector prior to constructing any additions, such as porches, storage sheds, garages, carports, decks, patios or additional living area, on the mobile home. See also the following provisions of this Code: Chs. 8 Health Safety and Solid Waste; Chapter 12 Streets, Sidewalks and Public Places; Ch. 13 Sewer and Water; Ch. 15 Building and Construction; Ch. 18 Village Zoning Code. (recr. fr. §16.04.230, partial)
- 16.12 PARK ATTENDANT. (1) OFFICE. In every mobile home park within the Village there shall be located the “office of the mobile home park attendant” or an individual in charge of said park.
- 16.12(2) POSTING REQUIREMENTS. The following shall be kept and posted in this office: a copy of the park’s license; and, a copy of this chapter, and any amendments hereto.
- 16.12(3) FULL TIME ATTENDANT NOT REQUIRED. In lieu of a full time attendant the park owner may provide a 24-hour per day emergency contact person. Said contact person shall be able to be contacted via a toll-free telephone number. (recr. fr. §16.04.210)
- 16.12(4) DUTIES FO PARK ATTENDANT, PERSON IN CHARGE AND LICENSEE. It shall be the duty of the park attendant or person in charge, together with the licensee to:
- 16.12(4)(a) Keep a register of all park residents to be open at all times to inspection by state and federal officers and the Village Board or its agents, which shall show the names and addresses of all the residents.
- 16.12(4)(b) Maintain the park in a clean, orderly and sanitary condition at all times.
- 16.12(4)(c) Ensure that the provisions of this chapter are complied with and enforced, reporting promptly to the proper authorities any violation of this chapter or any other violations of law which may come to his/her attention. (recr. fr. §16.04.180)
- 16.12(4)(d) Collect the monthly parking fee provided for in §66.0585 Wis. Stats.
- 16.15 REVOCATION. Any license granted under the provisions of this chapter shall be subject to revocation or suspension for cause by the Village Board upon complaint filed with the Village Clerk/Treasurer as signed by any law enforcement officer, local health officer, as

defined in §250.01(5), Wis. Stats., or building inspector after a public hearing upon the complaint, provided that the holder of the license shall be given 10 days notice in writing of the hearing, and the holder of the license shall be entitled to appear and be heard as to why the license shall not be revoked. Any holder of a license that is revoked or suspended hereunder may, within 20 days of the date of the revocation or suspension, appeal therefrom to the circuit court for Dodge County by filing a written notice of appeal with the Village Clerk/Treasurer, together with a bond executed to Village, in the sum of \$500 with 2 sureties or a bonding company approved by the Village Clerk/Treasurer, conditioned for the faithful prosecution of the appeal and the payment of costs adjudged against the license holder. (recr. fr. §16.04.240)

- 16.20 VIOLATIONS AND PENALTY. (1) GENERAL. Except as otherwise provided herein, any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in §25.04 of this Code.
- 16.20(2) REPORTING VIOLATIONS. Any person who fails to comply with the reporting requirements of §16.07(2)(a) or (4), shall be subject to a forfeiture of up to \$25. Each failure to report shall be regarded as a separate offense.

Chapter 17

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(Renum. and recr. from Subdivision Ord. [published March 1981] as amended by Ords. 203, 1992, 206, 1993 and 231, 1998)

TITLE AND INTRODUCTION

- 17.01 **TITLE AND AUTHORITY.** (Renum. and recr. fr. §17.1.0) (1) **TITLE.** This chapter shall be known as, referred to, or cited as the “SUBDIVISION ORDINANCE, VILLAGE OF LOMIRA, WISCONSIN.
- 17.01(2) **AUTHORITY.** These regulations are adopted under the authority granted by §236.45, Wis. Stats.
- 17.02 **PURPOSE AND INTENT.** (Renum. and recr. fr. §§17.1.3 and 1.4) (1) **PURPOSE.** The purpose of this chapter is to regulate and control the division of land within the corporate limits and extraterritorial plat approval jurisdiction of the Village of Lomira in order to promote the public health, safety morals, prosperity, aesthetics and general welfare of the community.
- 17.02(2) **INTENT.** It is the general intent of this chapter to regulate the division of land so as to:
- (a) Obtain the wise use, conservation, protection, and proper development of the Village’s soil, water, wetland, woodland, and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base;
 - 17.02(2)(b) Lessen congestion in the streets and highways;
 - 17.02(2)(c) Further the orderly layout and appropriate use of land;
 - 17.02(2)(d) Secure safety from fire, panic and other dangers;
 - 17.02(2)(e) Provide adequate light and air;
 - 17.02(2)(f) Prevent the overcrowding of land;
 - 17.02(2)(g) Avoid undue concentration of population;
 - 17.02(2)(h) Facilitate adequate provision of housing, transportation, water, sewerage, schools, parks, playgrounds, and other public requirements. Secure safety from flooding, water pollution, disease and other hazards;

17.02(2)(i) Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects;

17.02(2)(j) Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters;

17.02(2)(k) Preserve natural vegetation and cover and promote the natural beauty of the Village;

17.02(2)(L) Restrict building sites on flood lands, shorelands, areas covered by poor soils, and in other areas poorly suited for development;

17.02(2)(m) Facilitate the further division of larger tracts into small parcels of land;

17.02(2)(n) Ensure adequate legal description and proper survey monumentation of subdivided land;

17.02(2)(o) Provide for the administration and enforcement of this chapter; provide penalties for its violation; and

17.02(2)(p) Implement the Village of Lomira comprehensive plan and adopted plan components, and in general to facilitate enforcement of development standards as set forth in the official map, this chapter, the Zoning Code or other development codes adopted by the Village.

17.02(2)(q) Facilitate the growth and expansion of the Village by extending streets and utilities to adjacent property lines.

17.03 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to laws. However, where this chapter imposes greater restrictions, the provisions of this chapter govern. (was §17.1.5)

17.04 DEFINITIONS. (renum. and recr. fr. §17.11.0) For the purposes of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not directory.

17.04(1) ALLEY. A special public way affording only secondary access to abutting properties.

17.04(2) ARTERIAL STREET. A street used, or intended to be used, primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways as well as standard arterial streets, highways and parkways.

17.04(3) BLOCK. A group of lots existing within well defined and fixed boundaries usually being an area surrounded by streets or other physical barriers, and having an assigned number, letter, or other name through which it may be identified.

17.04(4) BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

- 17.04(5) BULDING LINE. A line parallel to a lot line and at a distance from the lot line to comply with the Village Zoning Code.
- 17.04(6) BUILDING SETBACK LINE. A line parallel to the street defined by the Village Zoning Code beyond which buildings may not be erected.
- 17.04(7) COLLECTOR STREET. A street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance street to residential developments.
- 17.04(8) COMMISSION. The Village Plan Commission created by the Board of Trustees of the Village of Lomira pursuant to §62.23, Wis. Stats.
- 17.04(9) COMPREHENSIVE PLAN. The extensive, developed plan, also called a master plan, adopted by the Commission and certified to the Village Board pursuant to §62.23, Wis. Stats., including proposals for future land use, transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as zoning, official map, land divisions, and building line ordinances and capital improvement programs shall also be considered a part of the comprehensive plan.
- 17.04(10) COUNTY PLANNING AGENCY (COMMITTEE). The Committee created by the Dodge County Board of Supervisors pursuant to §59.97, Wis. Stats., and authorized to plan land use within the County of Dodge, Wisconsin.
- 17.04(11) COUNTY SANITARY ORDINANCE. Reference to County Sanitary Ordinance shall mean the Dodge County Sanitary Ordinance.
- 17.04(12) CUL-DE-SAC STREET. A minor street at one end with a turn-around provided for the safe and convenient reversal of traffic movement as provided by this chapter.
- 17.04(13) DEEP ABSORPTION SYSTEM. A soil absorption sewage system for disposal of effluent through the bottom and sides of a hole or trench at depth of more than 3 feet below the natural undisturbed surface.
- 17.04(14) DIVISOIN OF LAND. Where the title of any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, or a certified survey, and a division occurs where any of the above transactions change the title from a joint tenancy in common or from tenancy in common to joint tenancy.
- 17.04(15) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION. The unincorporated area within one and one-half (1 ½) miles of a fourth class city or a village and within 3 miles of all other cities.
- 17.04(16) FLOODLANDS. Those lands, including the floodplain, floodway, and channels, subject to inundation by the 100 year recurrence interval flood or, where such data are not available, the maximum flood of record.
- 17.04(17) FRONTAGE. The length of the front property line of the lot, lots, or tract of land abutting water or a public street, road, highway, or rural right-of-way.
- 17.04(18) FRONTAGE STREET. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

- 17.04(19) GRADE. The slope of a road, street, or other public way, specified in percent.
- 17.04(20) HIGH-WATER ELEVATION. The average annual high-water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distance mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic geological or vegetative characteristic.
- 17.04(21) IMPROVEMENT, PUBLIC. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, or other facility for which the Village or Town may ultimately assume the responsibility for maintenance and operation.
- 17.04(22) LOT. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Ordinance and any applicable zoning ordinance.
- 17.04(23) LOT AREA. The area contained within the exterior boundaries of a lot excluding streets, easements and land under navigable bodies of water.
- 17.04(24) LOT, CORNER. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.
- 17.04(25) LOT, THROUGH. A lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines but in the case of two or more contiguous through lots, there shall be a common front lot line.
- 17.04(26) MINOR STREET. A street used, or intended to be used, primarily for access to abutting properties.
- 17.04(27) MINOR SUBDIVISION. The division of land by the owner or subdivider resulting in the creation of not more than 4 parcels or building sites.
- 17.04(28) MUNICIPALITY. An incorporated village or city.
- 17.04(29) NAVIGABLE STREAM. Any stream capable of floating any boat, skiff, or canoe, of the shallowest draft used for recreation purposes.
- 17.04(30) OUTLOT. A remnant parcel of land not to be used for building purposes, so designated on the plat.
- 17.04(31) PRELIMINARY PLAT. A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes for preliminary consideration.
- 17.04(32) PUBLIC WAY. Any public road, street, highway, walkway, drainageway, or part thereof.
- 17.04(33) REPLAT. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot

within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.

- 17.04(34) SHORE LANDS. Those lands lying within the following distances, 1000 feet from the high-water elevation of navigable lakes, ponds, and flowages or 300 feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- 17.04(35) SUBDIVIDER. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.
- 17.04(36) SUBDIVISION. The division of a lot, outlot, parcel, or tract of land by the owner thereof, or his agent for the purpose of transfer of ownership or building development where the act of division creates 5 or more parcels or building sites; or where the act of division creates 5 or more parcels or building sites by successive division within a period of 5 years, whether done by the original owner or a successor owner.
- 17.04(37) SURETY BOND. A bond guaranteeing performance of a contract or obligation through possible forfeiture of bond of said contract or obligation is unfulfilled by the subdivider.
- 17.04(38) TOWN. Reference(s) to Town shall mean a town board, town clerk or any other designated town committee.
- 17.04(39) WETLANDS. Those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high water table.
- 17.04(40) WISCONSIN ADMINISTRATIVE CODE. The rules of administrative agencies having rule making authority in Wisconsin, published in a loose-leaf, continual revision system as directed by §35.93 and ch. 227, Wis. Stats., including subsequent amendments to those rules.
- 17.04(41) ZONING ORDINANCE (CODE). Reference(s) to Zoning Ordinance or zoning code shall mean the Village of Lomira's Zoning Code. (See ch. 18, this Code)
- 17.05 INTERPRETATION. 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 deemed a limitation or repeal of any other power granted by the laws of Wisconsin.
- 17.06 EFFECTIVE DATE. (Renum. and recr. fr. §17.1.9) This chapter became effective after (March 1981) following a public hearing, adoption by the Village Board of Trustees and compliance with applicable statutes.

GENERAL PROVISIONS

- 17.08 JURISDICTION AND COMPLIANCE. (Renum. and recr. fr. §§17.2.1 and 17.2.2) (1)
JURISDICTION. (a) Established. Jurisdiction of these regulations shall include all lands within the corporate limits of the Village of Lomira as well as the unincorporated area within 1 ½ miles of the corporate limits.

17.08(1)(b) Exceptions. The provisions of this chapter as it applies to divisions of tracts of land into less than five (5) parcels shall not apply to: 1. Transfers of interests in land by will or pursuant court order.

17.08(1)(b)2. Leases for a term not to exceed 10 years, mortgages or easements.

17.08(1)(b)3. Sale or exchange of abutting parcels of land between the owners of the abutting parcels if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations, the Zoning Code, or other applicable laws or ordinances.

17.08(2) COMPLIANCE. No person, firm or corporation shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, minor subdivision, or a replat as defined herein; no such subdivision, minor subdivision or replat shall be entitled to record and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and:

17.08(2)(a) The applicable provisions of ch. 236, Wis. Stat.

17.08(2)(b) Rules of the Wisconsin Department of Health and Family Services, Division of Health regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.

17.08(2)(c) Rules of the Wisconsin Department of Transportation Division of Highways relating to safety of access and the preservation of the public interest and investment in the highway systems if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting street.

17.08(2)(d) Rules of the Wisconsin Department of Natural Resources, Division of Environmental Protection setting water quality standards, preventing and abating pollution, and regulating development within floodplain and shoreland areas.

17.08(2)(e) Comprehensive Plans or components of such plans prepared by state, regional, county, or municipal agencies duly adopted by the Village Board of Trustees.

17.08(2)(f) All applicable local and county regulations, including zoning, sanitary, building, and official mapping ordinances.

17.09 DEDICATION AND RESERVATION OF LANDS. (Renum. and recr. fr. §17.2.3 as am. By Ord. 206, 1993) The following dedications and reservations of land shall be made at the time of application for final plat approval and shall be made a part of the plat:

17.09(1) DEDICATION OF LANDS FOR STREETS AND PUBLIC WAYS. Whenever a tract of land to be subdivided embraces all or any part of an arterial street, drainageway or other public way which has been designated in the comprehensive plan, comprehensive plan component, or on the official map of the Village of Lomira, said public way shall be made a part of the plat and dedicated or reserved by the subdivider in the locations and dimensions indicated on said plan or map and as set forth in §§17.39 through and including §17.47, of this chapter.

17.09(2) DEDICATION OF LANDS FOR PLAYGROUNDS, PARKS, SCHOOL SITES. The subdivider shall designate on every new preliminary plat an area of land suitable for parks and/or playgrounds.

17.09(2)(a) The designated area shall be dedicated to the public at the rate of 1 acre for each 27 proposed dwelling units.

17.09(2)(b) Proposed public lands designated in the Comprehensive Plan, other than streets or drainageways, in excess of the rate established herein shall be reserved for a period not to exceed 2 years unless extended by mutual agreement for purchase by the public agency having jurisdiction; or all said proposed public lands, other than streets or drainageways, shall be reserved by the subdivider for a period not to exceed 2 years, unless extended by mutual agreement, for acquisition by the Village at undeveloped land costs, and a public site fee shall be levied against the subdivider at the time of application for final plat approval at the rate and according to the procedures established in §17.70 of this chapter.

17.09(2)(c) The Commission may waive the requirement for public land if it finds that the proposed public land would be too small or unsuitable for reasons particular to the subdivision or the neighborhood in which it is located. In lieu of dedication, the Commission shall levy a public site fee against the subdivider at the time of application for final plat approval at the rate and according to the procedures established in §17.70 of this chapter.

17.09(3) DEDICATION OF LANDS FOR PLAYGROUNDS, PARKS LOCATED OUTSIDE THE CORPORATE LIMITS OF THE VILLAGE. Dedication of Lands for playgrounds, parks located outside the corporate limits of the Village of Lomira but within the jurisdictional area of these regulations shall be required at the rate of 1 acre for each 27 dwelling units or a public site fee shall be levied against the subdivisor at the time of application for final plat approval according to the rate established in §17.70 of this chapter, at the discretion of the Village.

17.09(3)(a) Such requirements for dedication and/or fees shall be applied under the stipulation that such land shall be maintained by the Village at no cost to the residents of the subdivision and/or such fees as required by §17.70 shall be used to provide services to residents of the subdivision.

17.09(3)(b) For any proposed public lands designated in the comprehensive plan, or plan component, or on the official map of the Village of Lomira, lying outside the corporate limits of the Village but, within the jurisdictional area of the regulations, the subdivider shall provide an offer for acquisition to the town or county.

17.10 IMPROVEMENTS AND VARIANCES. (Renum. and recr. fr. §17.2.4) (1) IMPORVEMENTS. Before final approval of any plat located within the corporate limits of the Village, the subdivider shall install street and utility improvements as hereinafter provided. If such improvements are not installed as required at the time that the final plat is submitted for approval, the subdivider shall before the recording of the plat enter into a contract with the Village agreeing to install the required improvements and shall file with said contract a bond meeting the approval of the Village Attorney or a certified check in an amount equal to the estimated cost of the improvements as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than 1 year from the

date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied.

17.10(1)(a) Contractors and Subcontractors. Contractors and subcontractors who are to be engaged in the construction of street and utility improvements on dedicated street rights-of-way shall be subject to the approval of the Commission.

17.10(1)(b) Governmental Units. Governmental Units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.

17.10(1)(c) Survey Monuments. Before final approval of any plat within the corporate limits of the Village, the subdivider shall install survey monuments placed in accordance with the requirements of §§236.15(1) and (2), Wis. Stats.

17.10(1)(d) Plats Outside the Corporate Limits. Before final approval by the Village of any plat located outside the corporate limits of the Village, but within the plat approval jurisdiction of the Village, the subdivider shall give evidence that he has complied with all street and utility improvement requirements of the Village and the town in which the land being platted is located.

17.10(2) VARIANCES. (Renum. and recr. fr. §17.2.5) Where, the judgment of the Commission, it would be inappropriate to apply literally the provisions of this chapter because of the proposed subdivision being located outside of the corporate limits, or because exceptional or undue hardship would result, the Commission may waive or modify any requirements to the extent deemed just and proper. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this chapter or the desirable general development of the community in accordance with the comprehensive plan or comprehensive plan component of the Village. A $\frac{3}{4}$ vote of the entire membership of the Commission shall be required to grant any modification of this chapter, and the reasons shall be entered in the minutes of the Commission. Commission may waive the placing of monuments, required under §236.15, Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

17.11 LAND SUITABILITY. No land shall be subdivided which is held unsuitable for its proposed use by the Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the Village. The Commission in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter the Commission may affirm, modify, or withdraw its determination of unsuitability. (was §17.2.6)

17.12 EXTENSION TO ADJACENT PROPERTY REQUIRED. At least one street, as specified by the Village, shall extend to an adjacent property owned by someone other than the subdivider. The street shall be constructed to conform with Village requirements including sewer and water lines. This extension shall be constructed during the initial subdivision development. (Created during recodification)

- 17.13 **VIOLATION AND PENALTIES.** (Renum and recr. fr. §§17.2.7 and 17.2.8) (1) **VIOLATIONS.** It shall be unlawful to build upon, divide, convey record or monument any land in violation of this Chapter or the Wisconsin Statutes; and no person, firm or corporation shall be issued a building permit by the Village of Lomira, authorizing the building on, or improvement of, any subdivision, minor subdivision or replat within the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.
- 17.13(2) **PENALTIES.** Any person, firm or corporation who fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000 and the costs 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, but not exceeding 6 months. Each day a violation exists or continues shall constitute a separate offense.
- 17.13(2)(a) Recordation improperly made has penalties provided in §236.30, Wis. Stats.
- 17.13(2)(b) Conveyance of lots in unrecorded plats has penalties provided for in §236.31, Wis. Stats.
- 17.13(2)(c) Monuments disturbed or not placed have penalties as provided for in §236.32, Wis. Stats.
- 17.13(2)(d) Assessor's Plat may be ordered by the Village when a subdivision is created by successive divisions, as provided in §236.31(2), Wis. Stats.
- 17.14 **APPEALS.** (Renum and recr. fr. §17.3.1) Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in §236.13(5) and 62.23(7)(e) 10, 14, 15, Wis. Stats., within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objection agency is arbitrary, unreasonable or discriminatory.

PROCEDURE

- 17.14 **PRELIMINARY CONSULTATION.** (Renum and recr. fr. §17.3.1) It is recommended that, prior to the filing of an application for the approval of a preliminary plat, the subdivider consult with the Commission and/or its staff in order to obtain their advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components, and duly adopted plan implementation devices of the Village and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

- 17.15 PRELIMINARY PLAT REVIEW. (Renum. and recr. fr. §17.3.2) Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The Preliminary Plat shall be prepared in accordance with this chapter, and the subdivider shall file an adequate number of copies on the Plat and the application with the Village Clerk/Treasurer at least 25 days prior to the meeting of the Commission at which action is desired.
- 17.15(1) **PROCEDURE.** The Village Clerk/Treasurer shall, within 2 days after filing, transmit copies of the plat to the following:
- 17.15(1)(a) 4 copies to the Dodge County Planning Agency;
- 17.15(1)(b) 2 copies to the Director of the Planning Function in the Wisconsin Department of Commerce;
- 17.15(1)(c) Additional copies to the Director of the Planning Function for retransmission of 2 copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and, the Division of Health in the Wisconsin Department of Health and Family Services if the subdivision is not served by a public sewer and provision for such service has not been made;
- 17.15(1)(d) An adequate number of copies to the Commission.
- 17.15(2) **OBJECTING AGENCIES.** The County Planning Agency, the Wisconsin Department of Commerce, the Wisconsin Department of Transportation and the Wisconsin Department of Health and Family Services shall be hereinafter referred to as objecting agencies.
- 17.15(3) **PLAN COMMISSION.** The Commission, hereby designated as approving authority for all preliminary plats, shall transmit a copy of the Preliminary Plat to all affected Village boards, commissions or departments, and all affected local utility companies for their review and recommendations concerning matters within their jurisdiction.
- 17.15(3)(a) Their recommendations shall be transmitted to the Commission within 15 days from the date the Plat is filed.
- 17.15(3)(b) The Preliminary Plat shall then be reviewed by the Commission for conformance with this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which affect it.
- 17.16 PRELIMINARY PLAT APPROVAL. (Renum and recr. fr. §17.3.3) The objecting agencies shall, within 20 days of the date of receiving their copies of the Preliminary Plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Commission. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the Plat.
- 17.16(1) The Commission, within 40 days of the date of filing of Preliminary Plat with the Village Clerk/Treasurer, shall approve, approve conditionally, or reject such Plat.
- 17.16(2) One copy of the Plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected a letter setting forth the conditions of approval or the reasons for rejection shall accompany the Plat.

- 17.16(3) One copy each of the Plat and letter shall be placed in the Commission's permanent file.
- 17.16(4) Failure of the Commission to act within 40 days shall constitute an approval.
- 17.16(5) Approval or Conditional Approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within 6 months of preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in §236.11(1)(b) of the Wis. Stats., the Final Plat shall be entitled to approval with respect to such layout.
- 17.16(6) The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat which will be subject to further consideration by the Commission at the time of its submission.
- 17.17 FINAL PLAT REVIEW. (Renum. and recr. fr. §17.3.4) The subdivider shall prepare a Final Plat and a letter of application in accordance with this chapter and shall file an adequate number of copies of the Plat and the application with the Village Clerk/Treasurer at least 25 days prior to the meeting of the Commission at which action is desired.
- 17.17(1) PROCEDURE. The Village clerk/Treasurer shall, within 2 days after filing, transmit copies to the following agencies: (a) 4 copies to the County Planning Agency;
- 17.17(1)(b) 2 copies to the Director of the Planning Function in the Wisconsin Department.
- 17.17(1)(c) Additional copies to the Director of the Planning Function for retransmission of 2 copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Division of Health within the Wisconsin Department of Health and Family Services if the subdivision is not served by a public sewer and provision for service has not been made; and,
- 17.17(1)(d) The original Final Plat and adequate copies to the Commission.
- 17.17(2) OBJECTING AGENEICES. The County Planning Agency, the Wisconsin Department of Commerce, the Wisconsin Department of Transportation, and the Wisconsin Department of Health and Family Services shall be hereinafter referred to as objecting agencies.
- 17.17(3) PLAN COMMISSION. The commission shall examine the Final Plat as to its conformance with: the approved Preliminary Plat; any conditions of approval of the Preliminary Plat; this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it, and shall recommend approval, conditional approval or rejection of the Plat to the Village Board.
- 17.17(4) PARTIAL PLATTING. The Final Plat may, if permitted by the Commission, constitute only that portion of the approved Preliminary Plat which the subdivider proposes to record at the time. Approval of a Final Plat for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for 1 one year from the date of such Final Plat approval.
- 17.18 FINAL PLAT APPROVAL. (Renum. fr. §17.3.5) The objecting agencies shall, of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and

objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Commission. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the Plat.

- 17.18(1) SUBMISSIN. If the Final Plat is not submitted within 6 months of the last required approval of the Preliminary Plat, the Village Board may refuse to approve the Final Plat. The Commission shall, within 30 days of the date of filing of the Final Plat with the Village Clerk/Treasurer, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Village Board.
- 17.18(2) NOTIFICATION. The commission shall when it determines to recommend approval of a Plat, give at least 10 days prior written notice of its intention to the Clerk of any municipality within 1,000 feet of the Plat.
- 17.18(3) VILLAGE BOARD. The Village Board shall, within 60 days of the date of filing the original Final Plat with the Village Clerk/Treasurer, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Village Board may not inscribe its approval on the Final Plat unless the Village Clerk/Treasurer certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof, and that no objections have been filed within 20 days or, if filed, have been met. Failure of the Village Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- 17.18(4) RECORDATIN. After the Final Plat has been approved by the Village Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Village Clerk/Treasurer shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the county register of deeds. The register of deeds cannot record the Plat unless it is offered within 30 days from the date of last approval.
- 17.18(5) COPIES. The subdivider shall file 10 copies of the Final Plat with the Village Clerk/Treasurer for distribution to the approving agencies and other affected agencies for their files.
- 17.19 PLATS WITHIN THE EXTRATERRITORIAL PLAT APPROVAL JURISDICTION.
(Renum. and recr. fr. §17.6.6) When the land to be subdivided lies within 1 ½ miles of the corporate limits of the Village, the subdivider shall proceed as specified in §§17.14 through 17.18 of this chapter, except: Transmittal Responsibility lies with the Village Clerk/Treasurer, Town Clerk or County Planning Agency to whomever the Plat is first submitted; and the subdivider shall indicate which one in his application.
- 17.19(1) APPROVING AGENCIES. Approving Agencies include the Commission or Village Board, Town Board and the County Planning Agency; and the subdivider must comply with the land division ordinances of these agencies.
- 17.19(2) SUBDIVIDER COMPLIANCE. Subdivider may proceed with the installation of such improvements and under such regulation as the Town Board of the town within whose limits the Plat lies may require.

- 17.19(3) CONNECTION TO VILLAGE UTILITY. No connection allowed unless the property is annexed to the Village of Lomira.
- 17.19(4) FILING ON FINAL PLAT. All Improvement Requirements, specified by the Town Board or any special improvement district in matters over which they have jurisdiction shall be met before filing of the Final Plat.
- 17.20 REPLAT. When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in §§236.40 through 236.44 of the Wis. Stats. The subdivider, or person wishing to replat, shall then proceed as specified in 17.14 through 17.19 of this chapter. The Village Clerk/Treasurer shall schedule a public hearing before the Commission when a Preliminary Plat of a replat of lands within the Village is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed Replat. (Renum. fr. §17.3.7)
- 17.21 MINOR SUBDIVISION. (Renum. and recr. fr. §17.3.8) When it is proposed to divide land into not more than 4 parcels or building sites the subdivider may subdivide by use of a Certified Survey Map.
- 17.21(1) LETTER OF INTENT. The subdivider shall submit to the Village Clerk a letter of intent. The letter of intent shall specify:
- 17.21(1)(a) The name and address of the owner of the property under consideration.
- 17.21(1)(b) The name and address of the subdivider.
- 17.21(1)(c) The name and address of the surveyor who will be doing the work.
- 17.21(1)(d) The names and addresses of all prospective buyers.
- 17.21(1)(e) The location and size of the property.
- 17.21(1)(f) The present use of the land.
- 17.21(1)(g) The intended future use of the land.
- 17.21(1)(h) The estimated time table of development.
- 17.21(2) SKETCH MAP. Accompanying the letter of intent, for areas outside the flood plain, the subdivider shall submit a sketch map at a scale of 1"-200' or other appropriate scale. More than one sketch map may be used to show the required information but they shall be of the same scale and no one map shall be larger than 8 ½" x 11". Each submission shall include all contiguously owned land except the sketch need not show more than 20 times the area of the intended certified survey. This sketch map shall show the following information:
- 17.21(2)(a) North arrow, date, and scale.
- 17.21(2)(b) Reference to a section corner.

17.21(2)(c) Approximate dimensions of the parcels and easements.

17.21(2)(d) The location of existing buildings, water wells, sewerage systems, watercourses, drainage ditches and other features pertinent to proper division.

17.21(2)(e) Setback or building lines required by any approving agency.

17.21(2)(f) The uses of the land adjacent to the property and existing roads, easements of record, public access to navigable waters, dedicated areas and utilities.

17.21(3) FLOOD PALIN AREAS. The commission may require that two foot contour maps prepared by a registered surveyor or engineer, be the basis of the sketch in floodplain areas. In addition, the information required above in subs. (1) and (2) above will also be required.

17.21(4) PROPOSED LAYOUT. The Commission may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time. Additional Information. The Commission may require contour maps and individual lot percolation tests and soil borings prior to tentative approval where limiting conditions are suspected.

17.21(5) TENTATIVE APPROVAL. The Commission may grant tentative approval based on the letter of intent and sketch map pending submission of the certified survey map. Tentative approval shall assure final approval if the certified survey submitted within the six months is substantially the same plan and all requirements for division are met.

17.21(6) CERTIFIED SURVEY. The subdivider shall cause a certified survey map to be prepared in accordance with §§17.34 through 17.38 of this chapter and submit 10 copies along with the individual lot percolation tests and soil borings (for lots not served by public sewer) to the Village Clerk/Treasurer.

17.21(6)(a) The map shall be reviewed by the Commission for conformance with this chapter and all ordinances, rules, regulations, comprehensive plans, and comprehensive plan components which affect it.

17.21(6)(b) The Commission shall approve, approve conditionally, or reject such map within 60 days from the date of filing of the map unless the time is extended by agreement with the subdivider.

17.21(6)(b)1. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider.

17.21(6)(b)2. If the map is approved, the Commission shall cause the Village Clerk to so certify on the face of a copy of the map and return it to the submitter.

17.21(7) RECORDATION. The subdivider shall record the map with the county register of deeds within 30 days of its approval by the Commission.

PRELIMINARY PLAT

17.22

GENERAL INFORMATION AND PLAT DATA. (Renum. and recr. fr. §§17.4.1 and 17.4.2) (1)
GENERAL. A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on tracing cloth or paper of good quality at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

17.22(1)(a) Title under which the proposed subdivision is to be recorded.

17.22(1)(b) Location of proposed subdivision by government lot, quarter section, township, range, county and state.

17.22(1)(c) Date, scale and North point.

17.22(1)(d) Name and addresses of the owner, subdivider and land surveyor preparing the plat.

17.22(1)(e) Entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development.

17.22(1)(f) The Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and undue hardship would result from strict application thereof.

17.22(2)

PLAT DATA. All preliminary plats shall show the following: (a) Length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.

17.22(2)(b) Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.

17.22(2)(c) Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

17.22(2)(d) Location and names of any adjacent subdivisions, parks, and cemeteries, and owners of record of abutting unplatted lands.

17.22(2)(e) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto together with any legally established centerline elevations.

17.22(2)(f) Location, size and invert elevation of any existing sanitary or storm sewers, culverts, and drain pipes, the location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.

17.22(2)(g) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.

17.22(2)(h) Existing zoning on and adjacent to the proposed subdivision.

17.22(2)(i) Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than 2 feet.

17.22(2)(i)1. At least 2 permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described.

17.22(2)(i)2. Where in the judgement of the Commission undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

17.22(2)(j) High-water elevation of all ponds, streams, lakes, flowages, and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom.

17.22(2)(k) Water elevation of all ponds, streams, lakes, flowages, and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom, at the date of the survey.

17.22(2)(L) Floodland and shoreland boundaries and the contour line lying a vertical distance of 2 feet above the elevation of the 100 year recurrence interval flood or, where such data is not available, 2 feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within 100 feet therefrom.

17.22(2)(m) Soil types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.

17.22(2)(n) Location and results of soil boring tests within the exterior boundaries of the plat conducted in accordance with Wis. Adm. Code, Ch. Comm 85.06, delineation of areas with 3 foot and 6 foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service.

17.22(2)(o) Location and results of percolation tests within the exterior boundaries of the plat conducted in accordance with Wis. Adm. Code, Ch. Comm 85, where the subdivision will not be served by public sanitary sewer service.

17.22(2)(p) Location, width and names of all proposed streets and public rights-of-ways such as alleys and easements.

17.22(2)(q) Approximate dimensions of all lots together with proposed lot and block numbers.

17.22(2)(r) Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways, or other public use or which are to be used for

group housing, shopping centers, church sites, or other nonpublic uses not requiring lotting.

17.22(2)(s) Approximate radii of all curves.

17.22(2)(t) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.

17.22(2)(u) Any proposed lake and stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.

17.22(2)(v) Where the Commission finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the preliminary plat, it shall have the authority to request in writing such information from the subdivider.

17.23 SOIL AND WATER CONSERVATION. The Commission upon determining from a review of the preliminary plat that the soil, slope, vegetation, and drainage characteristics of the site are such as to require substantial cutting, clearing, grading, and other earthmoving operations in the development of the subdivision or otherwise entail a severe erosion hazard, may require the subdivider to provide soil erosion and sedimentation control plans and specifications. In addition, the Commission may request a review of such plans by the County Soil and Water Conservation District Supervisors. (Renum. fr. §17.4.3)

17.24 STREET PLANS AND PROFILES. The commission may require that the subdivider provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon the same datum as above and plans and profiles shall meet the approval of the Commission. (Renum. fr. §17.4.4)

17.25 CONVENANTS. The commission may require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development. (Renum. fr. §17.4.5)

17.26 AFFIDAVIT. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Ordinance. (Renum. fr. §17.4.6)

FINAL PLAT

17.27 GENERAL. A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of §236.20, Wis. Stats. (Renum. fr. §17.5.1)

17.28 ADDITIONAL INFORMATION. (Renum. and recr. fr. §17.5.2) The Plat shall show correctly on its face, in addition to the information required by §236.20, Wis. Stats., the following:

17.28(1) Exact Street Width along the line of any obliquely intersecting street.

- 17.28(2) Floodland and Shoreland Boundaries and the contour line lying a vertical distance of 2 feet above the elevation of the 100 year recurrence interval flood, or, where such data is not available, a vertical distance of 2 feet above the elevation of the maximum flood of record.
- 17.28(3) Location of Individual Lot Soil Boring and Percolation Tests as required by Wis. Adm. Code Ch. Comm 85 for all lots not served by Public sewer. The results of the tests shall be submitted with the Plat.
- 17.28(4) Railroad Rights-of-way within and abutting the Plat.
- 17.28(5) Setbacks or Building Lines required by any approving or reviewing agency.
- 17.28(6) All Lands Reserved for future public acquisition or reserved for the common use of property owners within the Plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the Plat.
- 17.28(7) Special Restrictions required by the Commission and other approving or objecting agency relating to access control along public ways, the provision of planting strips, or shorelands or floodlands.
- 17.28(8) Where the Commission finds that it requires additional information relative to a particular problem presented by a proposed development to review the Final Plat, it shall have the authority to request in writing such information from the subdivider.
- 17.29 DEED RESTRICTIONS. The Commission may require the deed restrictions be filed with the Final Plat. (Renum. fr. §17.5.3)
- 17.30 SURVEY ACCURACY. A qualified person shall examine all Final Plats within the Village's jurisdiction and make field checks for the accuracy and closure of survey, proper kind and location of monuments and legibility and completeness of the drawing. (Renum. fr. §17.5.4)
- 17.31 SURVEYING AND MONUMENTING. All final plats shall meet all the surveying and monumenting requirements of Section 236.15 of the Wisconsin Statutes. (Renum. fr. §17.5.5)
- 17.32 RELOCATED QUARTER SECTION CORNERS. Where the Plat is located within a quarter section the corners of which have been relocated, monuments and coordinated by the Village, the Plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material of the monument marking the relocated section or quarter corner to which the Plat is tied shall be indicated on the Plat. (Renum. fr. §17.5.6)
- 17.33 CERTIFICATES. All final plats shall provide all the certificates required by §236.21, Wis. Stats.; and, in addition, the surveyor shall certify that s/he has fully complied with all the provisions of this Ordinance. (Renum. f. §17.5.7)

CERTIFIED SURVEY MAP

- 17.34 GENERAL. A certified survey map prepared by a registered land surveyor shall be required for all minor subdivisions. It shall comply in all respects with the requirements of §236.34, Wis. Stats. The minor subdivision shall be excepted from the improvements requirements set forth in §§17.49 through 17.58 of this chapter but shall comply with the design standards set forth in §§17.39 through 17.47 of this chapter. (Renum. fr. §17.6.1)
- 17.35 ADDITIONAL INFORMATION. (Renum. and recr. fr. §17.6.2) (1) MAP REQUIREMENTS. The Map shall show correctly on its face, in addition to the information required by §236.34, Wis.Stats., the following: (a) Date of Map;
- 17.35(1)(b) Graphic scale;
- 17.35(1)(c) Name and address of the owner, subdivider and surveyor.
- 17.35(1)(d) All existing buildings, watercourses, drainage ditches and other features pertinent to proper division.
- 17.35(1)(e) Names of adjoining streets, highways, parkways, cemeteries, subdivisions, ponds, streams, lakes, flowages, and wetlands.
- 17.35(1)(f) Acreage included in each parcel.
- 17.35(1)(g) Floodland and shoreland boundaries and the contour line lying a vertical distance of 2 feet above the elevation of the 100 year recurrence interval flood, or, where such data is not available, a vertical distance of 2 feet above the elevation of the maximum flood of record.
- 17.35(1)(h) Location of individual lot soil boring and percolation tests, as required by Wis. Adm. Code, Ch. Comm 85, for all lots not served by public sewer. The results of the tests shall be submitted with the map.
- 17.35(1)(i) Setbacks or building lines required by any approving or reviewing agency.
- 17.35(1)(j) All lands reserved for future public acquisition.
- 17.35(2) PLAN COMMISSION. Where the Commission finds that it requires additional information relative to a particular problem presented by a proposed development to review the certified survey map, it shall have the authority to request in writing, such information from the subdivider as information on shoreline and bottom characteristics.
- 17.36 RELOCATED QUARTER SECTIONS. Where the Map is located within a quarter section the corners of which have been relocated, monumented and coordinated by the Village, the Map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material of the monument marking the relocated section or quarter corner to which the Map is tied shall be indicated on the Map. (Renum. fr. §17.6.3)
- 17.37 CERTIFICATES. The surveyor shall certify on the face of the Map that he has fully complied with all the provisions of this chapter. The commission, after a recommendation by the reviewing agencies, shall certify its approval on the face of the Map. (Renum. fr. §17.6.4)

- 17.38 RECORDATION. The Certified Survey Map shall only be recorded with the county register of deeds after the certificates of the Commission and the surveyor are placed on the face of the Map. (Renum. fr. §17.6.5)

DESIGN STANDARDS

- 17.39 STREET ARRANGEMENT. (Renum. and recr. fr. §17.7.1) In any new subdivision the street layout shall conform to the arrangement, width and location indicated on the official map, comprehensive plan or component neighborhood development plan of the Village of Lomira. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with satisfactory access to a public street.
- 17.39(1) ARTERIAL STREETS. Arterial streets, as hereafter defined, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
- 17.39(2) COLLECTOR STREETS. Collector streets, as hereafter defined, shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they feed.
- 17.39(3) MINOR STREETS. Minor streets, as hereafter defined, shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to provide the minimum street area necessary to provide safe and convenient access to abutting property.
- 17.39(3)(a) Minor street locations and street grades shall be established wherever practicable in such a manner as to avoid excessive grading and to avoid the excessive removal of tree growth and general leveling of the topography.
- 17.39(3)(b) Street, Block, and Lot Layouts shall be adjusted to the capacity of the soil and water resources and shall be designed so as to least disturb the existing terrain, flora, fauna, and water regimen and to meet all the use, site, sanitary, floodland, and shoreland regulations contained in the Village Zoning Code and other applicable ordinances.
- 17.39(3)(c) Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of the adjacent tracts.

- 17.39(4) ARTERIAL STREET AND HIGHWAY PROTECTION. Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage, with screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets. Stream or lake shores shall have 60 feet of public access platted to the low water mark at intervals of not more than one-half mile as required by §236.16(3), Wis. Stats.
- 17.39(6) RESERVE STRIPS. Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the Village under conditions approved by the Commission.
- 17.39(7) ALLEYS. Alleys shall be provided in commercial and industrial districts for off-street loading and service access unless otherwise required by the Commission, but shall not be approved in residential districts.
- 17.39(8) DEAD-END ALLEYS. Dead-end alleys shall not be approved, and alleys shall not connect to a major thoroughfare.
- 17.39(9) STREET NAMES. Street names shall not duplicate or be similar to existing street names, and existing street names shall be projected wherever possible. (Renum. fr. §17.7.1)
- 17.40 LIMITED ACCESS HIGHWAY AND RAILROAD RIGHT-OF-WAY TREATMENT.
(Renum. and recr. fr. §17.7.2) Whenever the proposed subdivision contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:
- 17.40(1) PLANTING STRIP. (a) When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least 30 feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth.
- 17.40(1)(b) The strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat:
- “THIS STRIP RESERVED FOR THE PLANTING OF TREES AND SHRUBS, STRUCTURES HEREON PROHIBITED.”**
- 17.40(2) COMMERCIAL AND INDUSTRIAL DISTRICTS. Commercial and Industrial Districts shall have provided, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.
- 17.40(3) STREETS PARALLEL TO A LIMITED ACCESS HIGHWAY. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of 250 feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

- 17.40(4) **MINOR STREETS.** Minor Streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.
- 17.40(5) **SALES OF LAND ABUTTING ON PRIVATE WAY.** No person shall sell any parcel of land of 5 acres or less in size if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by town, county, or village.
- 17.41 **STREET DESIGN STANDARDS.** (Renum. and recr. fr. §17.7.3) (1) **MINIMUMS.** The minimum right-of-way and roadway width of all proposed street and alleys shall be as specified by the comprehensive plan, comprehensive plan component, official map, or neighborhood development study; or if no width is specified therein, the minimum widths shall be as follows:

Type of Street	R-O-W to be Reserved and Dedicated	Pavement Width (Face of Curb to Face of Curb)
		46 Feet
	100 Feet	Dual 34' with 24'
Arterial Street	120 Feet	Median
Boulevard		40 Feet
	80 Feet	36 Feet
Collector Street	60 Feet	36 Feet
Minor Street	60 Feet	5 Feet
Cul-de-sac	10 Feet	20 Feet
Pedestrian Ways	24 Feet	30 Feet
Alleys: Residential Commercial	32 Feet	

- 17.41(2) **CUL-DE-SAC STREETS.** Cul-de-Sac Streets designed to have one end permanently closed shall not exceed 1000 feet in length. All cul-de-sac streets designed to have one end permanently closed shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and a minimum outside curb radius of 40 feet.
- 17.41(3) **STREET GRADES.** Unless necessitated by exceptional topography subject to the approval of the Commission the maximum centerline grade of any street or public way shall not exceed the following:
- 17.41(3)(a) Arterial streets: 6 percent.
- 17.41(3)(b) Collector streets: 8 percent.
- 17.41(3)(c) Minor streets, alleys and frontage streets: 10 percent.

17.41(3)(d) Pedestrian ways: 12 percent unless steps of acceptable design are provided.

17.41(3)(e) The grade of any street shall in no case exceed 12 percent or be less than one-half of one (0.5) percent.

17.41(3)(f) Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography.

17.41(3)(g) All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major streets, and ½ this minimum for all other streets.

17.41(4) **RADII OF CURVATURE.** When a continuous street centerline deflects at any one point by more than 10 degrees, a circular curve shall be introduced having a radius of curvature on said center line of not less than the following:

17.41(4)(a) Arterial streets and highways: 500 feet.

17.41(4)(b) Collector streets: 300 feet.

17.41(4)(c) Minor streets: 100 feet.

17.41(5) **TANGENT REQUIREMENT.** A tangent at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.

17.41(6) **HALF-STREETS.** Where an existing dedicated or platted half-street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. The platting of half streets should be avoided where possible.

17.42 **STREET INTERSECTIONS.** (Renum. and recr. fr. §17.7.4) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.

17.42(1) **STREETS CONVERGING.** The number of Streets converging at one intersection shall be reduced to a minimum, preferably not more than 2.

17.42(2) **INTERSECTIONS.** The number of intersections along major streets and highways shall be held to a minimum. Wherever practicable the distance between such intersections shall not be less than 1200 feet.

17.42(3) **PROPERTY LINES.** Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the Commission, or shall be cut off by a straight line through the points of tangency of an arc having a radius of 15 feet.

17.42(4) **MINOR STREETS.** Minor streets shall not necessarily continue across arterial or collector streets; but if the centerline of such minor streets approach the major streets from opposite sides within 300 feet of each other, measured along the center line of the arterial or collector street, then the location shall be so adjusted that the adjoinment across the major or collector street is continuous; and a jog is avoided.

- 17.43 BLOCKS. (Renum. and recr. fr. §17.7.5) The widths, lengths, and shapes of blocks shall be suited to the planned use of the land; zoning requirements; need for convenient access, control and safety of street traffic; and the limitations and opportunities of topography.
- 17.43(1) LENGTH. Blocks in residential areas shall not as a general rule be less than 600 feet nor more than 1500 feet in length unless otherwise dictated by exceptional topography or other limiting factors of good design.
- 17.43(2) PEDESTRIAN WAYS. Pedestrian ways of not less than 10 feet in width may be required near the center and entirely across any block over 900 feet in length where deemed essential by the Commission to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities.
- 17.43(3) WIDTH. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.
- 17.44 LOTS. (Renum. and recr. fr §17.7.6) The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.
- 17.44(1) SIDE LOT LINES. Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- 17.44(2) DOUBLE FRONTAGE AND REVERSE FRONTAGE LOTS. Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- 17.44(3) ACCESS. Every lot shall front or abut for a distance of at least 30 feet at the property line on a public street.
- 17.44(4) AREA AND DIMENSIONS OF LOTS. Area and dimensions of lots shall conform to the requirements of the zoning ordinance and in areas not served by sewer shall, in addition, conform to the requirements of the State Department of Health and Family Services and the County Sanitary Ordinance. Whenever a tract is subdivided into large parcels, such parcels shall be arranged and dimensioned as to allow resubdivision of any such parcels into normal lots in accordance with the provisions of this chapter.
- 17.44(5) DEPTH. Lots shall have a minimum average depth of 100 feet. Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio under normal conditions. Depth of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.
- 17.44(6) WIDTH. Width of lots shall conform to the requirements of the Zoning Code, and in no case shall a lot be less than 60 feet in width at the building setback line.

- 17.44(7) CORNER LOTS. Corner lots shall have an extra width of 10 feet to permit adequate building setbacks from side streets.
- 17.44(8) LANDS LYING BETWEEN THE MEANDER LINE. Lands lying between the meander line, established in accordance with §236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplatted lands which lie between a proposed subdivision and the water's edge shall be included as parts of lots, outlots, or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which he holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream as provided in §236.16(4), Wis. Stats.
- 17.45 BUILDING SETBACK LINES. (Renum. fr. §17.7.7) Where not controlled by zoning regulations, building setback lines, appropriate to the location and type of development contemplated, shall be established as may be required by the Commission and shall be based on requirements set forth in this section.
- 17.45(1) All residential lots shall have a setback from the front lot line of not less than 30 feet.
- 17.45(2) Corner residential lots shall have a setback from each street of not less than 30 feet.
- 17.46 EASEMENTS. (Renum. and recr. fr. §17.7.8) The Commission may require utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for electric power and communication poles, wires, conduits; storm and sanitary sewers; and gas, water and other utility lines.
- 17.46(1) DRAINAGE EASEMENTS. (a) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, an adequate drainageway or easement shall be provided as may be required by the Commission.
- 17.46(1)(b) The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Commission; and,
- 17.46(1)(c) Parallel streets or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.
- 17.46(2) UTILITY EASEMENTS. All utility lines for electric power and telephone service shall be placed on midblock easements along rear lot lines whenever carried on overhead poles.
- 17.47 PUBLIC SITES AND OPEN SPACES. In the design of the plat, due consideration shall be given to the reservation of suitable site of adequate area for future schools, parks, playgrounds, drainageways and other public purposes. If designated on the comprehensive plan, comprehensive plan component, Official Map, or component neighborhood development plan, such areas shall be made a part of the plat as stipulated in §17.09 of this chapter. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourses, watersheds and ravines. (Renum. and recr. fr. §17.7.9)

REQUIRED IMPROVEMENTS

- 17.48 **SURVEY MONUMENTS.** The subdivider shall install survey monuments placed in accordance with the requirements of §236.15, Wis. Stats. (Renum. fr. §17.8.1)
- 17.49 **GRADING.** (Renum. fr. §17.8.2) Cut and filled lands shall be graded to a maximum slope of one vertical to four horizontal or the soils angle of repose, whichever is the lesser, and covered with permanent vegetation.
- 17.49(1) Where electric and communications facilities are to be installed underground, the utility easements shall be graded to within 6 inches of final grade by the subdivider, prior to the installation of such facilities, and earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.
- 17.49(2) The subdivider shall furnish standard drawings which indicate the existing and proposed grades of streets shown on the plat.
- 17.49(3) Maximum centerline grades shall conform to standards established in Section §17.41 of this chapter. After approval by the Commission, the subdivider shall grade or cause to be graded the full width of the right-of-way of the proposed streets. The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation.
- 17.50 **STORMWATER DRAINAGE FACILITIES.** (Renum. and recr. fr. §17.8.3) All subdivisions shall be provided with adequate stormwater facilities.
- 17.50(1) The subdivider shall have plan and profile drawings specifications prepared for the installation of stormwater facilities within the streets and sewer easements in and adjacent to the proposed subdivision.
- 17.50(2) Upon approval of the plans by the planning commission, the subdivider shall cause to be installed in accordance with the “Standard Specifications for Sewer and Water Construction in Wisconsin,” all the facilities indicated on the plans.
- 17.50(3) The Subdivider shall assume the cost of installing all storm sewers within the proposed subdivisions, except for the added cost of installing storm sewers greater than 24 inches in diameter which are to serve tributary drainage areas lying outside of the proposed subdivision.
- 17.50(4) Storm drainage is required where the subdivision is not within reasonable access to adequate stormwater outfall facilities. The subdivider shall have prepared plan and profile construction drawings and shall cause to have installed adequate stormwater drainage facilities, including necessary road ditches, street and driveway culverts, spillways, checks, storm sewers, inlet basins, and open drainage channels, all of which shall be constructed within publicly dedicated streets or easements.
- 17.50(5) The developer or builder shall construct storm water drainage and detention facilities so that the post-development storm water run-off rate shall not exceed the pre-development run-off rate for all rainfall events up to and including the 25 year storm. The criteria for determining the 25 year rainfall event for Lomira shall be the National Resource Conservation Service’s Technical Release 55. The developer or builder shall submit storm water run-off calculations prepared by a registered professional engineer demonstrating compliance with the preceding requirements.

- 17.51 SANITARY SEWER. (Renum. and recr. fr. §17.8.4 as r. and recr. by Ord. 231, 1998) The developer shall have plan and profile drawings and specifications prepared for the installation of sanitary sewerage facilities including lateral house connections for each lot in the subdivision, extended to the lot line.
- 17.51(1) Upon approval of the plans by the Planning and Zoning Commission, the developer shall cause to be installed in accordance with the “Standard Specifications for Sewer and Water Construction in Wisconsin” all facilities Required.
- 17.51(2) The developer shall assume the cost of installing all sanitary sewers, sewer laterals and sewer appurtenances within the proposed subdivision, except for the added cost of installing sewers greater than 8 inches in diameter which are necessary to serve tributary drainage areas lying outside the proposed subdivision. In addition, the subdivider shall pay to the Village a sanitary sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the ratio in which the total area of the proposed plat is to the total drainage area to be served by such larger sewers.
- 17.51(3) If a new sewage lift station is necessary to serve the subdivision, or improvements are necessary to existing facilities to accommodate the needs of the subdivision, the subdivider shall pay the cost of the lift station and associated force main. The Village Board may, in its sole discretion, opt to contribute towards the cost of the lift station and force main if these facilities are sized to accommodate future development.
- 17.52 WATERMAINS. (Renum. and recr. fr. §17.8.5 as r. and recr. by Ord. 203, 1992) The subdivider shall have prepared plans and profile drawings and specifications for the installation of watermain, pipe fittings, valves, hydrants, lateral house connections for each lot in the subdivision, extended to the lot lines.
- 17.52(1) Upon approval by the Commission, the subdivider shall cause to be installed in accordance with the “Standard Specifications for Sewer and Water Construction in Wisconsin,” all facilities required.
- 17.52(2) Where the subdivision is not within reasonable access to connection with the Village watermain system, the subdivider shall submit a proposed water supply plan to the Commission.
- 17.52(3) This plan shall be approved by a registered engineer and all state and local agencies empowered with such approval. It shall be certified in writing that an adequate and safe supply of water will be provided.
- 17.52(4) If municipal water service is not available, the subdivider shall make provision for adequate private water systems as specified in applicable ordinances.
- 17.52(5) The commission may require the installation of water laterals to the street lot line. The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the Commission.
- 17.52(6) The subdivider shall assume the cost of installing all water mains 8 inches in diameter or less in size. If greater than 8 inch diameter water mains are required, the excess cost of such mains over and above the cost of an 8 inch main shall be borne by the Village.

- 17.53 STREET SURFACING: MINIMUM REQUIREMENTS. (Renum. and recr. fr. §17.8.6 as r. and recr. by Ord. 231, 1998) (1) After completion of the grading and construction of sewer and water utilities in the street areas, the subdivider shall cause to be laid a street base of at least 6 inches of ¾" crushed gravel, gradations to be approved by the Director of Public Works.
- 17.53(2) Between 6 months to 1 year after the installation of the roadway, a bituminous binder course at a compacted depth of one and three-fourths inches shall be laid flange of curb to flange of curb, by the developer.
- 17.53(3) Within nine months after the installation of the base course, the finish course of bituminous surfacing shall be installed to a minimum compacted depth of one and one-fourth inches by the developer.
- 17.53(4) The costs for all fine grading and surfacing, including inspection, supervision and engineering fees shall be paid for by the developer.
- 17.54 CURB AND GUTTER. (Renum. fr. §17.8.7 as r. and recr. by Ord. 231, 1998) The developer shall install concrete curb and gutter along both sides of all streets shown on the plat prior to installation of the bituminous binder, at the developer's cost. Whenever possible, provision shall be made at the time of construction for driveway access curb cuts.
- 17.55 STREET LIGHTS. (Renum. fr. §17.8.8 as r. and recr. by Ord. 231, 1998) All subdivisions shall contain street lighting. The developer shall provide for the installation of all street lights within the area being developed after consultation with the Village and the electric utility serving the subdivision.
- 17.55(1) In areas where underground electric facilities are installed, poles for street lights shall be of an ornamental type.
- 17.55(2) The developer shall pay the cost of supplying and the installation of the street lighting by the utility serving that subdivision.
- 17.55(3) The Village shall pay the cost of energy and maintenance for street lighting within the subdivision.
- 17.56 STREET SIGNS. (Renum. fr. §17.8.9 as r. and recr. by Ord. 231, 1998) The developer shall pay the cost of all street signs and traffic signals and their installation in the subdivision, as the Village deems necessary. (Amended Ord. 231, 1998)
- 17.57 SIDEWALKS. (Renum. fr. §17.8.10 as r. and recr. by Ord. 231, 1998) Concrete sidewalks shall be installed along the full width of all lots on which buildings have been constructed. Buildings for which a building permit is issued between March 1 and October 1 must have the street sidewalk and driveway approach installed prior to occupancy. Buildings for which the building permit is issued between October 1 and March 1 may postpone sidewalk installation if the building inspector determines that no hazards to health or safety exist. In these cases, the owner will be required to sign a special assessment waiver allowing the Village to complete this work if it is not completed by the owner by June 30 of the next ensuing year.
- 17.57(1) Any lot on which no building has been constructed after 4 years from the date of approval of the final plat, must have sidewalk installed along its full width at that time. Concrete sidewalks shall be installed on both sides of all streets within the subdivision.

- 17.57(2) The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the Village.
- 17.57(3) Wider than standard sidewalks may be required by the commission in the vicinity of schools, commercial areas and other places of public assemblage; and the Commission may require the construction of sidewalks in locations other than required under the preceding provisions of this chapter if such walks are necessary, in their opinion, for safe and adequate pedestrian circulation.
- 17.58 DRIVEWAYS Concrete or asphalt driveways shall be installed, from the sidewalk to the garage, on all lots on which buildings have been constructed within six months of occupancy of the buildings.
- 17.59 PUBLIC UTILITIES. (Renum. and recr. fr. §17.8.11) The subdivider shall cause gas, electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.
- 17.59(1) If cable television is available, it shall also be installed underground with service provided for each lot.
- 17.59(2) All telephone, electric and gas service lines shall be placed underground entirely throughout a subdivision area, unless otherwise approved by the council. Conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other municipal underground services.
- 17.59(3) No such electrical or telephone service shall be located on overhead poles along the front lot lines unless otherwise allowed due to exceptional topography or other physical barrier.
- 17.59(4) All utility lines for telephone and electric service shall be placed in rear lot line easements where practicable and side lot line easements, where necessary.
- 17.59(5) The subdivider shall have written statements from all the utilities that the easements as shown on the final plat are acceptable to them.
- 17.59(6) All piping must be laid in a sand or stone bed.
- 17.59(7) The cost for the plans, installation, inspection, supervision and engineering fees shall be paid for by the subdivider.
- 17.59(8) Temporary overhead facilities may be installed to serve a construction site or where necessary because of severe weather conditions. In the latter case, within a reasonable time after weather conditions have moderated, such temporary facilities shall be replaced by underground facilities and the temporary facilities removed, subject to any exception permitted by the Planning Commission.

CONSTRUCTION

- 17.60 COMMENCEMENT. No construction or installation of improvements shall commence in a proposed subdivision until the Preliminary Plat has been approved and the Commission has given written authorization. (Renum. fr. §17.9.1)

- 17.61 BUILDING PERMITS. No building permits shall be issued for erection of a structure on any lot not of record until all the requirements of this Chapter have been met. (Renum. fr. §17.9.2)
- 17.62 PLANS. (Renum. and recr. fr. §17.9.3) The following plans and accompanying construction specifications may be required by the Commission before construction or installation of improvements is authorized:
- 17.62(1) Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- 17.62(2) Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
- 17.62(3) Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
- 17.62(4) Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
- 17.62(5) Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation.
- 17.62(6) Deleted with recodification 2001
- 17.62(7) Additional special plans or information as required.
- 17.63 INSPECTION. The subdivider prior to commencing any work within the subdivision, shall make arrangements with the Commission to provide for adequate inspection. Authorized inspectors shall inspect and approve all completed work prior to approval of the Final Plat or release of the sureties. (Renum. fr. §17.9.4)
- 17.64 MAINTENANCE OF THE LANDSCAPE. (Renum. and recr. fr. §17.9.5) Proper construction techniques should be followed so as to maintain as many of the natural features of the site as is practically possible.
- 17.64(1) GRADING, EXCAVATING AND OTHER CONSTRUCTION. All Grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen and topography. The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded, or otherwise protected that erosion, siltation, sedimentation, and washing are prevented, in accordance with the plans and specifications approved by the Commission.
- 17.64(2) MAINTAINING PROPERTY. Property being developed, but on which there is no building constructed, shall be maintained without weeds, rocks, water puddles, ditches, or any other aesthetically undesirable features.

- 17.64(3) TEMPORARY VEGETATION AND MULCHING. Temporary Vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
- 17.64(4) CONSTRUCTION. (a) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
- 17.64(4)(b) There shall be no noise from construction or maintenance work between the hours of 9:00 P.M. and 7:00 A.M. This shall not apply to emergency work needed for the public welfare and/or public safety.
- 17.64(5) SEDIMENT BASINS. Sediment Basins shall be installed and maintained at all drainageways to trap, remove, and prevent sediment and debris from being washed outside the area being developed.
- 17.64(6) EXISTING FLORA. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, soil absorption waste disposal areas, paths and trails.
- 17.64(7) PROTECTION OF TREES REQUIRED. Such Trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls whenever abutting grades are altered.
- 17.64(8) TREE CUTTING AND SHRUBBERY CLEARING. Tree Cutting and Shrubby Clearing shall not exceed 30 percent of the lot or tract and shall be so conducted as to prevent erosion and sedimentation; preserve and improve scenic qualities; and during foliage, substantially screen any development from stream or lake uses.
- 17.64(9) PATH AND TRAILS CONSTRUCTION. Path and Trails shall not exceed 10 feet in width and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs and the minimum impairment of natural beauty.

FEES

- 17.65 GENERAL. The subdivider shall pay the Village all fees as hereinafter required and at the times specified. (Renum. fr. §17.10.1)
- 17.66 PRELIMINARY PLAT REVIEW FEE. (Renum. fr. §17.10.2 as r. and recr. by Ord. 231, 1998) (1) APPLICATION FEE. The subdivider shall pay a fee amounting to \$75 plus \$5 for each lot or parcel within the preliminary plat to the Village Clerk/Treasurer at the time of first application for approval of any preliminary plats to assist in defraying the cost of review.
- 17.66(2) REAPPLICATION FEE. Reapplication fee amounting to \$25 shall be paid to the Village Clerk/Treasurer at the time of reapplication for approval of any preliminary plat which has previously been reviewed.
- 17.67 IMPROVEMENT REVIEW FEE. (Renum. fr. §17.10.3 as r. and recr. by Ord. 231, 1998) (1) The developer shall pay a fee equal to 1 percent of the cost of the required public improvements as estimated by the Village Engineer at the time of the submission of improvement plans and specifications to partially cover the cost to the Village of checking and reviewing such plans and specifications.

- 17.67(2) Fee may be recomputed, upon demand of the developer or Village Engineer, after completion of improvement construction in accordance with the actual cost of such improvements and the difference, if any, shall be paid by or remitted to the developer.
- 17.68 INSPECTION FEE. The developer shall pay to the Village Clerk/Treasurer equal to the actual cost to the Village for such inspection as the Village Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specification and ordinances of the Village or any other governmental authority. (Renum. fr. §17.10.4 as r. and recr. by Ord. 231, 1998)
- 17.69 FINAL PLAT REVIEW FEE. (Renum. fr. §17.10.5 as r. and recr. by Ord. 231, 1998) (1) The developer shall pay a fee amounting to \$35 plus \$2.50 for each lot or parcel within the final plat to the Village Clerk/Treasurer at the time of first application for approval of said plat to assist in defraying the cost of review.
- 17.69(2) Reapplication fee amounting to \$25 shall be paid to the Village Clerk/Treasurer at the time of a reapplication for approval of any final plat which has previously been reviewed.
- 17.70 PUBLIC SITE FEE. (Renum. and recr. fr. §17.10.6 as r. and recr. by Ord. 206, 1993) (1) WHEN REQUIRED. If the Village Board waives the requirement for dedication of public lands as provided in §17.09 of this chapter, a fee for the acquisition of public sites or the upgrading of present parks to serve the future of the proposed subdivision, shall be paid to the Village Clerk/Treasurer at the time of first application for approval of a final plat of said subdivision in the amount of \$100 for each single dwelling unit and \$200 for each double dwelling unit within the plat.
- 17.70(2) SEGREGATED FUND. Public Site Fees shall be placed in a separate fund by the Village Clerk/Treasurer to be used only for the upgrading of existing parks and the acquisition of new park sites which will serve the proposed subdivision.
- 17.71 ENGINEERING FEE. (Renum. and recr. fr. §17.10.7) (1) The subdivider shall pay a fee equal to the actual cost to the Village for all engineering work incurred by the Village in connection with the plat. Engineering Work shall include the preparation of construction plans and standard specifications.
- 17.71(2) The Commission may permit the subdivider to furnish all, some or part of the required construction plans and specifications, in which case no engineering fees shall be levied for such plans and specifications. Inspection, Checking and Reviewing Work has fees provided for in §§17.67 and 17.68 of this chapter.
- 17.72 ADMINISTRATIVE FEE. The developer shall reimburse the Village for any all administrative, legal and consulting fees that are associated with the plat that is being developed. (Renum. fr. §17.10.8 as r. and recr. By Ord. 231, 1998)
- 17.73 CERTIFIED SURVEY REVIEW FEE. The subdivider shall pay a fee amounting to 20 plus \$2.50 for each lot or parcel shown on a certified survey at the time of first submission of a certified survey for approval to assist in defraying the cost of review. (Renum. fr. §17.10.9 as r. and recr. by Ord. 231, 1998)

Chapter 18

ZONING CODE

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INTRODUCTION

- 18.01 TITLE, AUTHORITY AND EFFECTIVE DATE. (1) TITLE. This chapter shall be known as, referred to, or cited as the “ZONING ORDINANCE, VILLAGE OF LOMIRA, WISCONSIN.” (rn. fr. Zoning §1.08)
- 18.01(2) AUTHORITY. These regulations are adopted under the authority granted by §§61.35 and 62.23(7) of the Wis. Stats. (rn. and recr. fr. Zoning §1.01)
- 18.01(3) EFFECTIVE DATE. This chapter shall be effective after a public hearing, adoption by the Village Board of Trustees, and publication or posting as provided by law. (rn. fr. Zoning §1.09)
- 18.02 PURPOSE AND INTENT. (1) PURPOSE. The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, and the general welfare of this community.
- 18.02(2) INTENT. It is the general intent of this chapter to regulate and restrict the use and development of all structures, lands and waters; to regulate and restrict lot coverage, population distribution and density, dredging and lagooning in shore land areas, and the size and location of all structures, so as to:
- 18.02(2)(a) Lessen congestion in, and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers;
- 18.02(2)(b) Provide adequate light and air; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values;
- 18.02(2)(c) Prevent water pollution; protect spawning grounds, fish and aquatic life and otherwise further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and,

18.02(2)(d) Implement the community's comprehensive plan and plan components.

18.02(2)(e) It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation. (rn. fr. Zoning §§1.02 and 1.03)

- 18.03 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, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern. (ren. fr. Zoning 1.04)
- 18.04 INTERPRETATION. The provisions of this Chapter shall be interpreted and applied as minimum requirements, shall be liberally construed in favor of the Village, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. (rn. fr. Zoning §1.05)
- 18.05 SEVERABILITY. If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect the remainder of this Chapter. (rn. fr. Zoning §1.06)
- 18.06 REPEAL. All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed. (rn. fr. Zoning §1.07)
- 18.07 DEFINITIONS. (Rn. and recr. during codification 1999) For the purpose of this Chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.
- 18.07(1) ACCESSORY USE OR STRUCTURE. A use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the principal structure.
- 18.07(2) AUTOMOBILE SERVICE STATION. (Created during codification 1999) Any building or premises which sells gasoline, oil and related products to the motoring public. This shall include repairs, washing and lubrication, but shall not include body work, painting, dismantling and vehicle sales.
- 18.07(3) BASEMENT. That portion of any structure located partly below the average adjoining lot grade.
- 18.07(4) BOARDING HOUSE. (Created during codification 1999) A building where meals and lodging are offered for compensation for five but not more than 12 persons and where no more than five sleeping rooms are provided for such purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant.
- 18.07(5) BUILDABLE AREA. The specified portion of a lot within the building and setback lines.
- 18.07(6) BUILDING. Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land.

- 18.07(7) BUIDLING AREA. The area bounded by the exterior dimensions of the outer walls at the ground line.
- 18.07(8) BUIDLING HEIGHT. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height, level between the eaves and ridges of gable, gambrel, hip and pitch roofs, or to the deck line of mansard roofs.
- 18.07(9) BUILDING INSPECTOR. The officer or other designated authority charged with the administration and enforcement of this Chapter or his duly authorized representative.
- 18.07(10) BUILDING LINE. The distance between the front lot line and the nearest point of a structure so that the minimum front yard requirements are met.
- 18.07(11) CAMP GROUND. (Created during codification 1999) A camp exclusive of buildings.
- 18.07(12) CHANNEL. (Created during codification 1999) A natural or artificial water course of perceptible extent, with definite bed and banks, to confine and conduct continuously or periodically flowing water.
- 18.07(13) CONDITIONAL USES. Uses of a special nature as to make impractical their predetermination as a principal use in a district.
- 18.07(14) CONVENIENCE STORE. Any building or premises which sells fuel, oil, food and related products to the motoring public. This may include a car wash, but shall not include vehicle sales, maintenance services or repairs. (Created during recodification)
- 18.07(15) DENSITY. The number of living units per acre allowable under the schedule of district regulations.
- 18.07(16) DISTRICT. A section or sections of the Village of Lomira for which the regulations governing the use of building and premises, the height of buildings, the size of yards, and the intensity of use are uniform.
- 18.07(17) DUPLEX. A dwelling containing 2 dwelling units.
- 18.07(18) DWELLING. A detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins.
- 18.07(19) DWELLING, MULTIFAMILY. A dwelling containing 3 or more dwelling units.
- 18.07(20) DWELLING, SINGLE FAMILY. A dwelling containing 1 dwelling unit. Single-family dwelling includes a manufactured home.
- 18.07(21) DWELLING, TWO FAMILY (DUPLEX). A dwelling containing 2 dwelling units.
- 18.07(22) DWELLING UNIT. 1 or more rooms which are arranged, designed, or used as living quarters for one family only.

- 18.07(23) **EMERGENCY SHELTER.** Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare, fire, flood, windstorm, riots and invasions.
- 18.07(24) **ESSENTIAL SERVICES.** Services provided by public and private utilities necessary for the exercise of the principal structure. These services include underground, surface or overhead gas, electricity, steam, communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.
- 18.07(25) **FAMILY.** The body of persons who live together in one dwelling unit as a single housekeeping entity.
- 18.07(26) **FARMING, GENERAL.** General farming shall include floriculture; forest and game management; orchards, raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming and vegetable farming. General farming includes the operating of such an area for one or more of the above uses with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
- 18.07(27) **FLOOR AREA.** Area in square feet of all floors in a building including elevators and stairways, measured by perimeters of outside walls multiplied by the number of floors, including basements which are used in the primary function of the building.
- 18.07(28) **FOREST.** (Created during codification 1999) The production and management of trees as a crop.
- 18.07(29) **FLOOD-PROOFED.** (Created during codification 1999) A special design, engineering or construction treatment of land or structures to prevent the entrance of water and/or the displacement of material or structures by flow of flood water and it shall be construed to include the following, without limitation because of enumeration:
- 18.07(29)(a) Raising the ground level of a building or site, by filling or grading, by use of piles, so that the lowest floor of the building shall be at an elevation not less than two feet above the highest recorded water level; water supply systems shall be constructed so as to prevent the entrance of flood waters; and essential utility systems shall be flood-proofed.
- 18.07(29)(b) Keeping flood water away from a building site or reducing the height or the frequency of flooding thereon, by dikes, levees, floodwalls or the like.
- 18.07(29)(c) Making structural modifications in a building to prevent the entrance of flood waters or to reduce the height or frequency of flooding therein, such as the following: 1. Anchorage of structures to foundations.
- 18.07(29)(c)2. Installation of watertight doors, bulkheads and shutters.
- 18.07(29)(c)3. Reinforcement of walls to resist water pressures.
- 18.07(29)(c)4. Use of paints, membranes or mortars to reduce seepage of water through walls.
- 18.07(29)(c)5. Addition of mass or weight to structures to resist flotation.

18.07(29)(c)6. Installation of pumps to lower water levels in structures.

18.07(29)(d) Constructing water supply and waste treatment systems to prevent the entrance of flood waters.

18.07(29)(e) Providing for prompt removal of structure or contents in time of flooding.

18.07(30) FRONTAGE. The smallest dimension of a lot abutting a public street measured along the street line.

18.07(31) FUR FARM. (Created during codification 1999) A tract of land or buildings devoted in whole or part to the raising of fur bearing animals for commercial purposes.

18.07(32) GARAGE, PRIVATE. An accessory building housing motor driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located. Not more than 1 of the vehicles may be a commercial vehicle.

18.07(33) GARAGE, PUBLIC OR COMMERCIAL. (Created during codification 1999) Any garage other than a private garage.

18.07(34) HOME OCCUPATION. (Revised during codification 1999) A gainful occupation conducted by a member of the family, within his or her place of residence, where the space used is incidental to residential use and no article is sold or offered for sale except such as is produced by such home occupation. The area utilized in the home occupation shall not exceed 25% (twenty-five percent) of the total living area of the home.

18.07(35) HOTEL. A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding or lodging house.

18.07(36) INSTITUTION. A building occupied by a non-profit corporation or a non-profit establishment; for public uses.

18.07(37) JUNK YARD. (Created during codification 1999) An open area or fenced-in enclosure, where used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. For the purpose of this ordinance, junk yard includes an auto salvage yard but does not include uses established entirely within enclosed buildings. Two or more inoperative pieces of equipment shall constitute a salvage yard.

18.07(38) LODGING HOUSE. A building or place where lodging is provided (or which is equipped regularly to provide lodging) by prearrangement for definite period, for compensation, for 3 or more, but not exceeding 12 individuals, not open to transient guests, in contradistinction to hotels open to transients.

18.07(39) LOT. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, parking area and other space provisions of this Chapter.

- 18.07(40) LOT, CORNER. A lot abutting 2 or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.
- 18.07(41) LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.
- 18.07(42) LOT, DOUBLE FRONTAGE. A lot having frontage of 2 nonintersecting streets, as distinguished from a corner lot.
- 18.07(43) LOT, INTERIOR. A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- 18.07(44) LOT, THROUGH. A lot which as a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- 18.07(45) LOT LINES AND AREA. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- 18.07(46) LOT WIDTH. The width of a parcel of land measured at the street side of the lot, or in an irregularly shaped lot, as next to a cul-de-sac, at the minimum building setback.
- 18.07(47) MANUFACTURED HOME. (Created during codification 1999) “Manufactured home” means a structure certified and labeled as a manufactured home under 42 U.S.C. secs. 5401 to 5426, which, when placed on the site:
- 18.07(47)(a) Is set on an enclosed foundation in accordance with §70.043(1), Wis. Stats., and Wis. Adm. Code subchs. III, IV, and V of ch. Comm 21, or is set on a comparable enclosed foundation system approved by the Village Building Inspector. The Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home;
- 18.07(47)(b) Is installed in accordance with the manufacturer’s instructions;
- 18.07(47)(c) Is properly connected to utilities; and,
- 18.07(47)(d) Is compatible to surrounding houses.
- 18.07(47m) MOBILE HOME. Any vehicle or structure which is or was as originally constructed, designed to be transported by any motor vehicle on a public highway and designed, equipped, used or intended to be used primarily for human habitation; including any additions, attachments, annexes, foundations and appurtenances thereto.
- 18.07(48) MOBILE HOME PARK. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation.
- 18.07(49) MOBILE HOME LOT. A parcel of land designed for the exclusive use of the occupants of single mobile home.
- 18.07(50) MOTEL. A series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.

- 18.07(51) **NAVIGABLE WATER.** (Created during codification 1999) “Navigable water” or “navigable waters” means all natural inland lakes and all streams, ponds, sloughs, flowage and other waters within the limits of the Village, and including any other waters which are defined as navigable under the laws of this state.
- 18.07(52) **NONCONFORMING USES OR STRUCTURES.** Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this Chapter or amendments thereto which does not conform to the regulations of this Chapter or amendments thereto. Any such structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure and not a nonconforming uses.
- 18.07(53) **NORMAL HIGHWATER ELEVATION.** (Created during codification 1999) (a) For lakes and ponds: The average of the highwater elevations for the period of record.
- 18.07(53)(b) For flowage: the same as (a), or the highest water elevation as determined by a control structure or dam.
- 18.07(54) **NURSING HOME.** An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted, in which not less than 3 persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment, or the care of the sick or injured.
- 18.07(55) **PLAN, FINAL.** (Created during codification 1999) A final drawing or design which will show the land use, construction or practice as set forth by the Village Plan Commission.
- 18.07(56) **PLAN, PRELIMINARY.** (Created during codification 1999) A drawing or design which shows the proposed land use, construction or practice that will effect the present land form of the site and its vegetation.
- 18.07(57) **PRIVATE SEWAGE DISPOSAL SYSTEM.** (Created during codification 1999) A sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks, and privately owned common sewerage facilities including package treatment plants, lagoons and irrigation systems.
- 18.07(58) **PUBLIC AND SEMI-PUBLIC BUILDINGS.** (Created during codification 1999) Public and semi-public buildings in the sense of this ordinance are structures principally of an institutional nature and serving a public need such as: churches, hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services; but not including the operation of a public bar, restaurant or recreational facility as commercial enterprise.
- 18.07(59) **PUBLIC SEWAGE DISPOSAL SYSTEM.** (Created during codification 1999) Sewers and sewage treatment facilities used in connecting therewith which are maintained and operated by a municipality or sanitary district.
- 18.07(60) **QUARRYING.** (Created during codification 1999) The removal of rock, slate, gravel, sand, top soil or other natural material from the earth by excavating, stripping, leveling or any other such process.

- 18.07(61) RECREATIONAL AREA. (Created during codification 1999) Shall include park, playground, ballfield, ski hill, sport field, swimming pool, riding stables or riding academies or other facilities and area constructed for recreational activities and open for uses by the public or private organizations.
- 18.07(62) ROADSIDE STAND. (Created during codification 1999) A farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of farm products.
- 18.07(63) SANITARY LANDFILL. (Created during codification 1999) A waste disposal operation which consists of dumping garbage, rubbish and other debris into a depression or trench, compacting it, and promptly covering it with a layer of earth of suitable thickness.
- 18.07(64) SETBACK. (Created during codification 1999) The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of-way, water line, or prospective line to the nearest vertical wall or other element of a building or structure.
- 18.07(65) SIGN. Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, tradenames or trademarks by which anything is made known and which are used to advertise or promote an individual, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- 18.07(66) STOCK FARMS. The keeping of any livestock or animals for commercial gain or sale.
- 18.07(67) STREET. A public right-of-way not less than 40 feet wide providing primary access to abutting properties.
- 18.07(68) STREET LINE. (Created during codification 1999) The dividing line between a lot and a continuous street.
- 18.07(69) STRUCTURE. Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment including all buildings.
- 18.07(70) STRUCTURAL ALTERATIONS. Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- 18.07(71) SWIMMING POOL. A swimming pool shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, either above or below the ground, in which water of more than 12 inches in depth is contained and which is used primarily for the purpose of bathing and swimming. Children's small inflatable pools are excluded from this definition.
- 18.07(72) TRAVEL TRAILER. A travel trailer is vehicular, portable, structure built on a chassis and designed as temporary dwelling for travel, recreation and vacation.
- 18.07(73) UNIT DEVELOPMENT, PLANNED. (Created during codification 1999) A type of development that may be permitted in zoning districts in order to achieve greater design flexibility.
- 18.07(74) USABLE OPEN SPACE. Space suitable for recreation, gardens or household service activities, such as clothes drying. Such space must be at least 75 percent open to the sky, free of automobile traffic, parking and undue hazards and readily accessible by all those for whom it is intended. (rn. fr. Zoning 21.00 to 21.02)

- 18.07(75) USE, PRINCIPAL. (Created during codification 1999) The primary use of a property or structures.
- 18.07(76) USE, ACCESSORY. (Created during codification 1999) A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use except for such accessory parking facilities as are specifically authorized to be located elsewhere.
- 18.07(77) UTILITIES. Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electric power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage areas.
- 18.07(78) WATERCOURSE. (Created during codification 1999) Any depression serving to give direction to a current of water at least six months of the year, having a bed and well-defined banks; provided, however, that it shall upon the order of the Department of Natural Resource, also include any particular depression which would not otherwise be within the definition of watercourse.
- 18.07(79) WATER LINE. (Created during codification 1999) The shortest straight line at the waterfront end of a lake or stream lot that lies wholly within the lot, provided that not less than 75 percent of the length of such water line shall be on, or on the landward side of, the highwater mark of such lake or stream.
- 18.07(80) WATER SETBACK. (Created during codification 1999) The distance which a building shall be required to be set back, place, located or erected from the water line.
- 18.07(81) WATERWAY. (Created during codification 1999) Shall include navigable water, rivers, streams, ditches, lagoons, canals and channels.
- 18.07(82) WORK IN RESPECT TO WATERWAYS. (Created during codification 1999) Work which shall include the following activities: (a) To construct, dredge, commence or do any work with respect to any artificial waterway, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection with an existing navigable stream, lake or other body of navigable water, or where any part of such artificial waterway is located within 500 feet of the normal high-water mark of an existing navigable lake or flowage, or 300 feet of navigable streams, rivers, channels, or canals.
- 18.07(82)(b) To connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway with an existing body of navigable water.
- 18.07(82)(c) To change or alter the course of a river or stream.
- 18.07(83)(d) To remove materials from the bed of navigable waters.
- 18.07(84)(e) To deposit any material or to place any structure upon the bed of any navigable water where no bulkhead line has been established, or beyond a lawfully established bulkhead line.

- 18.07(83) YARD. (Created during codification 1999) An open space on a lot which is unoccupied and obstructed from its lowest level to the sky. A yard extended along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.
- 18.07(84) YARD, FRONT. (Created during codification 1999) A yard extending along the full width of the front lot line between side lot lines.
- 18.07(84m) YARD, FRONT (STREET). A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lot shall have 2 such yards.
- 18.07(85) YARD, REAR. (Created during codification 1999) The portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot.
- 18.07(86) YARD, SIDE. (Created during codification 1999) A yard extending along a side lot between the front and rear yards.

GENERAL PROVISIONS

- 18.10 JURISDICTION AND COMPLIANCE. (1) JURISDICTION. The jurisdiction of this Chapter shall include all lands and waters within the corporate limits of the Village of Lomira.
- 18.10(2) COMPLIANCE. No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except for normal repairs of existing structures, without a Building Permit and/or a Certificate of Zoning Compliance and without full compliance with the provisions of this Chapter and all other applicable local, County and State regulations. (m. fr. Zoning §§2.01 and 2.02)
- 18.11 BUILDING PERMIT. Applications for Building Permit shall be made in duplicate to the Village Clerk on forms furnished by said office and shall include the following where applicable: (1) Names and Addresses of the applicant, owner of the site, architect, professional, engineer, and/or contractor.
- 18.11(2) Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site number of occupants or employees; and the zoning district within which the subject site lies.
- 18.11(3) Location Sketch prepared by applicant if the subject site is part of a recorded subdivision of Plat of Survey prepared by registered land surveyor if subject site is not part of a recorded subdivision, 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; and, existing and proposed street, side, and rear yards.

- 18.11(4) Additional information as may be required by the Village Plan Commission, Building Inspector, or Village Clerk/Treasurer.
- 18.11(5) Fee Receipt in the amount as specified in the Building Code or, if Building Code does not apply, as set by the Village Board.
- 18.11(6) Any application for a Building Permit shall be granted or denied in writing by the Village Clerk within 30 days. If denied, the reasons for such denial shall clearly appear upon the face of the notification of denial. The permit shall expire within 6 months unless substantial work has commenced. Any permit issued in conflict with provisions of this Chapter shall be null and void. Any permit issued in conflict with the provisions of this Chapter shall be null and void and all permit fees paid will be forfeited. (rn. fr. Zoning §2.03)
- 18.12 CERTIFICATE OF ZONING. (1) No building, or addition thereto, constructed after the effective date of this Chapter and no addition, alteration, reconstruction, extension, enlargement, conversion, or structural alteration to a previously existing building shall be occupied or used for any purpose until a Certificate of Zoning Compliance has been issued by the office of the Village Clerk/Treasurer.
- 18.12(2) No change in a use shall be made until a Certificate of Zoning Compliance has been issued by the office of the Village Clerk/Treasurer.
- 18.12(3) Every Certificate of Zoning Compliance shall state that the use or occupancy complies with all of the provisions of this Chapter.
- 18.12(4) Every application for a Building Permit shall be deemed an application for a Certificate of Zoning Compliance.
- 18.12(5) Every application for Certificate of Zoning Compliance for a new use or change in use of land or building shall be made directly to the office of the Village Clerk/Treasurer on forms provided by said office.
- 18.12(6) No Certificate of Zoning Compliance for a building, or portion thereof, constructed after the effective date of this Chapter, shall be issued until construction is substantially completed and the premises inspected and certified by the Building Inspector to be in conformity with the plans and specifications upon which the Building Permit was issued.
- 18.12(7) Upon written request from the owner, the Village Clerk/Treasurer or designee, shall issue a Certificate of Compliance 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. (rn. fr. Zoning §2.04)
- 18.13 SITE RESTRICTIONS. No Building Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side, thereof from which the required dedication has not been secured. (rn. fr. Zoning §2.05, r.cr. by Ord. 224, 1196)
- 18.14 DIMENSIONS OF BUILDING SITES. (1) MINIMUM AREA, WIDTH AND SIDE YARD FOR LOTS SERVED BY PUBLIC SEWER. (a) Except as otherwise specifically required or permitted the minimum lot area shall be ten thousand (10,000) square feet and

the minimum lot width one hundred (100) feet at the building line and one hundred (100) feet at the water's edge.

18.14(1)(b) Minimum corner lot size shall be at least 100 feet on both street sides.

- 18.14(2) **SIDE YARD.** Except as otherwise specifically required or permitted the minimum width of each side yard shall be 12 feet. (m. fr. Zoning §2.06)
- 18.15 **USE RESTRICTIONS.** The following use restrictions and regulations shall apply: Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district. (1) **ACCESSORY USES.** Accessory Uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry. Accessory uses and structures include incidental repairs; storage; parking facilities; gardening; servant's quarters; itinerant agricultural laborer's and watchman's quarters not for rent; private swimming pools; private emergency shelters; doghouses and dog kennels.
- 18.15(2) **CONDITIONAL USES.** Conditional Uses and their accessory uses are those which require review, public hearing, and approval by the Village Plan Commission in accordance with sec. 18.36. The only conditional uses and structures permitted by this Chapter shall be those enumerated in the Zoning District Regulations.
- 18.15(3) **UNCLASSIFIED OR UNSPECIFIED USES.** Unclassified or Unspecified Uses may be permitted by the Board of Appeals after review and recommendation by the Village Plan Commission provided that such uses are similar in character to the principal uses existing in the district, and that no material detrimental to adjoining property will result.
- 18.15(4) **TEMPORARY USES.** Temporary Uses, such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Building Inspector through the issuance of a Certificate of Zoning Compliance for a period not to exceed six (6) months. This temporary certificate may be renewed semiannually but in no case shall the effective time span of the certificates exceed two (2) years. (m. fr. Zoning §2.07)
- 18.16 **REDUCTION OR JOINT USE.** No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. (m. fr. Zoning §2.08)
- 18.17 **ANNEXATIONS.** Before completion of annexation procedures, the Village Plan Commission shall evaluate and recommend a permanent district classification to the Village Board. The Village Board shall designate permanent district classifications upon annexation. (m. fr. Zoning §2.09)
- 18.18 **VIOLATIONS.** It shall be unlawful to construct any structure or building or to use any structure, land, air or water in violation of any of the provisions of this Chapter. In case of violation, the Village Board, Plan Commission, the Building Inspector, or any property owner who would specifically be damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Chapter or cause such structure or use to be vacated or removed. (m. fr. Zoning §2.10)

- 18.19 PENALTIES. Any person, firm, or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit not less than \$10 nor more than \$50 and costs 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, for a period not to exceed 30 days. If there has been an affirmative showing of indigence within the discretionary period set for payment of any forfeiture by a defendant, such person shall not be imprisoned for non-payment of the forfeiture imposed. Each day a violation exists or continues shall constitute a separate offense. (rn. fr. Zoning §2.11)
- 18.20 ZONING MAP. (1) DISTRICT BOUNDARIES. The locations and boundaries of the zoning districts are shown on the Village Zoning map, and referred to by reference as the “Official Zoning Map Lomira, Wisconsin.”
- 18.20(2) MAP INCORPORATED BY REFERENCE. This map, together with all explanatory matter and regulations thereon, is an integral part of this Chapter and shall be as much a part of this section as if the matter and things set forth by the map were fully described herein.
- 18.20(3) OFFICIAL COPIES AND PUBLIC INSPECTION. Official copies of the zoning map, together with a copy of this Chapter, shall be kept by the Village Clerk/Treasurer and shall be available for public inspection. The map shall be certified by the Village President and attested by the Village Clerk/Treasurer.
- 18.20(4) CHANGES AND AMENDMENTS. Any changes or amendments affecting district boundaries or explanatory matter shall be so recorded on the map. No change shall be effective until so recorded and until a duly certified and attested certificate describing the change is filed with the map.
- 18.20(5) MAPPING DISPUTES. When uncertainty exists with respect to the boundaries of the various districts as shown on the map, the following rules shall apply:
- 18.20(5)(a) When width or length of boundaries are not clear, the scale of the map shall determine the approximate dimensions. District Boundaries are normally lot lines, center lines of streets, highways, railroads or alleys.
- 18.20(5)(b) The Board of Appeals, in accordance with the provisions of this Chapter, shall hear and decide the precise location of a district boundary line when such line cannot otherwise be determined. (rn. fr. Zoning §2.12)

ZONING DISTRICTS

- 18.25 ZONING DISTRICTS ESTABLISHED. (rn. fr. Zoning §3.01) For the purpose of this Chapter, the following Primary Use Districts are hereby established within the Village of Lomira:
- 18.25(1) R-1 RESIDENTIAL DISTRICT
- 18.25(2) R-2 RESIDENTIAL DISTRICT
- 18.25(3) R-3 RESIDENTIAL DISTRICT
- 18.25(4) C-1 CENTRAL COMMERCIAL DISTRICT

- 18.25(5) C-2 HIGHWAY COMMERCIAL DISTRICT
- 18.25(6) BP BUSINESS PARK DISTRICT
- 18.25(7) I INDUSTRIAL AGRICULTURE DISTRICT
- 18.25(8) EA EXCLUSIVE AGRICULTURE DISTRICT
- 18.25(9) A-G AGRICULTURAL DISTRICT
- 18.25(10) C-O CONSERVANCY DISTRICT
- 18.25(11) F-P FLOODPLAIN DISTRICT
- 18.26 R-1 RESIDENTIAL DISTRICT. (1) PURPOSE. This district is primarily intended to provide a suitable environment for single family residential development. (rn. fr. Zoning §§4.01-4.06)
- 18.26(2) LOT SIZE REGULATOINS. See §18.14, of this Code.
- 18.26(3) DWELLING SIZE REGULATIONS. Single-Family dwelling size shall be a minimum of 1,400 sq. ft. in living area, exclusive of attached garages, open porches, unfinished areas, etc. (rn. fr. Zoning §4.02, cr. By Ord. 221, 11/29/95)
- 18.26(4) HEIGHT REGULATIONS. Maximum Height: 35 feet.
- 18.26(5) YARD AND SETBACK REGULATIONS. (a) Minimums. Minimum front yard: 30 feet; Minimum side yard: 12 feet. See §18.16, of this Cod; Minimum rear yard:
- 18.26(5)(b) Highway Setbacks. 1. Property which adjoins any State Trunk Highway or United States Highway shall provide setbacks for the yard adjoining the highway as specified in each category: a. Minimum Front Yard: 30 feet;
- 18.26(5)(b)1.b. Minimum Side Yard: 50 feet;
- 18.26(5)(b)1.c. Minimum Rear Yard: 80 feet.
- 18.26(5)(b)2. Property which adjoins any County Trunk Highway shall provide setbacks for the yard adjoining the highway as specified in each category: a. Minimum Front Yard: 30 feet;
- 18.26(5)(b)2.b. Minimum Side Yard: 50 feet;
- 18.26(5)(b)2.c. Minimum Rear Yard: 50 feet.
- 18.26(6) PERMITTED USES. (a) Single family dwellings.
- 18.26(6)(b) Truck gardening, nurseries and greenhouses, only for the propagation of plants.
- 18.26(6)(c) Forestry, open spaces.

18.26(6)(d) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.

18.26(6)(e) Accessory structures including: Private garages, parking spaces, and carports for vehicles, and other structures clearly incidental to the residential use of the property.

18.26(7) **CONDITIONAL USES.** (a) Churches, including those related structures located on the same site which are an integral part of the church proper, convents and homes of persons engaged in a religious function on the same site, provided no building shall be located nearer than 25 feet from any lot line.

18.26(7)(b) Home occupants when such occupations are incidental to the residential use of the premises and do not involve any exterior alteration that would effect a substantial change in the residential character of the building; provided further that no article is sold or offered for sale that is not produced by such home occupation; that there is no sign used, other than a nameplate which is attached to the building, is not illuminated, and is not more than 2 square feet in area.

18.26(7)(c) Professional offices, where such office is conducted solely by a member or members of the occupant family entirely within the residence and incidental to the residential use of the premises. Not more than 25 percent of the floor area shall be occupied by such office. Not more than 1 non-family member may be employed in such office. Only 1 unlighted nameplate, not exceeding 1 square foot in area, containing the name and profession of occupant of the premises shall be exhibited.

18.26(7)(d) Municipal buildings except the following: garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions or asylums.

18.26(7)(e) Golf courses, country clubs, tennis clubs, swimming pools and other similar recreational facilities. The principal structure for any of the above listed uses shall be 100 feet or more from any abutting lot line in an "R" Zoning District, and any accessory structure shall be a minimum of 50 feet from any lot line.

18.26(7)(f) Rest, nursing, rehabilitation, group foster homes and similar group homes.

18.26(7)(g) Hospitals for human care and sanitariums, provided that all structures except fences shall be located 100 feet or more from the lot line of any abutting lot in an "R-1" District.

18.26(7)(h) Day care center, when required to be licensed by an agency of the State of Wisconsin, where a person provides for compensation, care and maintenance for 4 or more infants at a location other than the child's own home or the home of relatives or guardians. In such a center, a play area of 75 square feet per child shall be provided within a fenced area, other than a front yard. Where 3 or fewer children are cared for and maintained, such operation shall be permitted as a "home occupation."

18.26(7)(i) Public and parochial schools, colleges, universities and dormitories provided that no building shall be located nearer than 25 feet from any lot line.

18.26(7)(j) Public utility and public service uses as follows: 1. Electric substations. 2. Gas regulator stations. 3. Railroad rights-of-way, but not including railroad yards and

shops, freight and service buildings or rights-of-way for switch, lead, or spur tracks. 4. Sewerage system lift stations. 5. Telephone exchanges, micro-wave relay towers and telephone transmission equipment buildings. 6. Water pumping stations and water reservoirs. 7. Community centers and libraries. 8. Public emergency shelters. 9. Planned unit developments (PUD). 10 Parks and playgrounds. 11. Cemeteries.

18.26(7)(k) Two-family dwellings.

18.26(8) COMMERCIAL/INDUSTRIAL STORAGE RESTRICTED IN RESIDENTIAL (R-1) DISTRICTS. (a) The storage of commercial and industrial vehicles, supplies and equipment in residential districts is restricted as follows:

18.26(8)(b) In any residential district, equipment and building materials relating to industrial or commercial use must be stored in an enclosed building.

18.26(8)(c) Parking of commercial vehicles except for cars, pickup trucks, and vans in a residential zoned district is prohibited.

18.26(d) Parking of commercial trailers (job trailers) is allowed, providing that:

18.26(8)(d)1. Trailers may be parked in a private garage.

18.26(8)(d)2. Trailers parked outside must be the enclosed type and the trailer length may not exceed 20 feet.

18.26(8)(e) Exception to above: Commercial/industrial vehicles, supplies and equipment shall be allowed in any zoning district where such parking or storage is limited to vehicles, supplies and equipment engaged in the performance of a service on the adjacent or underlying property, for the period of time reasonably necessary for the contractor to complete the service. (Revised Ord. 264, 2009)

18.27 R-2 RESIDENTIAL DISTRICT. (rn. fr. Zoning §§5.01-5.06) (1) PURPOSE. This district is primarily intended to maintain the residential character of the existing central residential area.

18.27(2) LOT SIZE REGULATIONS. (a) Minimum Lot Size: 7,200 square feet.

18.27(2)(b) Minimum Lot Width: 60 feet.

18.27(3) HEIGHT REGULATIONS. Maximum Height: 35 feet.

18.27(4) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 30 feet or the average of the existing front yards of the existing principal structures on abutting lots on each side. If only one abutting lot is occupied by a principal structure, the minimum required front yard shall be the average of 30 feet and the existing principal structure on the abutting lot, whichever is less.

18.27(4)(b) Minimum Side Yard: The minimum width of each side yard shall be 12 feet.

18.27(4)(c) Minimum Rear Yard: 25 feet.

18.27(5) PERMITTED USES. (a) Single family dwellings.

18.27(5)(b) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.

18.27(5)(c) Accessory structures including: private garages, parking spaces, and carports for vehicles, and other structures clearly incidental to the residential use of the property.

18.27(6) CONDITIONAL USES. All conditional uses listed in R-1 District. Multifamily dwellings with approval of Plan Commission and the Village Board. Lot size regulations of R-3 Residential District shall apply.

18.28 R-3 RESIDENTIAL DISTRICT. (1) PUPOSE. (Cr. Codification 1999) This district is primarily intended to provide a suitable environment for multi-family developments for any building with 3 or more dwelling units.

18.28(2) LOT SIZE REGULATIONS. (a) Minimum Lot Area. See §18.28, of this Code for minimum lot area for uses other than multi-family dwellings.

18.28(2)(b) Lot Size Regulations. Multi-family dwelling units shall have a minimum lot area in accordance with the following schedule:

18.28(2)(b)1. One Bedroom Unit: 2,000 square feet per unit.

18.28(2)(b)2. Two Bedroom Unit: 2,500 square feet per unit.

18.28(2)(b)3. Three Bedroom Unit: 3,000 square feet per unit. (Revised Ord. 257, 2006)

18.28(2)(c) Notwithstanding the above, the minimum lot area for multi-family dwelling units shall be 12,000 square feet. (Revised Ord. 257, 2006)

18.28(3) MINIMUM LOT WIDTH. See §18.14, of this Code.

18.28(4) HEIGHT REGULATIONS. Maximum height: 35 feet.

18.28(5) YARD AND SETBACK REGULATIONS. (a) Minimums. Minimum front yard: 30 feet; Minimum rear yard: 25 feet; Minimum side yard: 12 feet. See §18.14, of this Code.

18.28(5)(b) Highway Setback. 1. Property which adjoins any State Trunk Highway or United States Highway shall provide setbacks for the yard adjoining the highway in each category: Minimum(s) – Front Yard: 30 feet; Side Yard: 50 feet; Rear Yard: 80 feet.

18.28(5)(b)2. Property which adjoins any County Trunk Highway shall provide setbacks for the yard adjoining the highway in each category: Minimum(s) – Front Yard: 30 feet; Side Yard: 50 feet; Rear Yard: 50 feet.

18.28(6) PERMITTED USES. (a) Uses permitted in the R-1 Residential District.

18.28(6)(b) Duplexes.

18.28(6)(c) Multiple Family Dwellings. (m. fr. Zoning §6.06, as recr. by Ord. 226, 9/3/96)

18.28(7) CONDITIONAL USES. (a) Conditional uses listed in the R-1 Residential District.

18.28(7)(b) Funeral Homes.

18.28(7)(c) Lodging Houses

18.28(7)(d) Private Clubs and Lodges. (m. fr. Zoning §§6.01-6.07, am by Ord. 226. 9/3/97)

18.285 R-4 RESIDENTIAL DISTRICT. (1) PUROSE. This district is intended to provide for medium-density residential areas with emphasis on two (2) family attached dwellings.

18.285(2) LOT SIZE REGULATIONS. (a) Minimum Lot Size: 13,000 square feet. 6,500 square feet for lots intended for zero lot-line two-family attached dwellings.

18.285(2)(b) Minimum Lot Width: 100 feet. 50 feet for lots intended for zero lot-line two-family attached dwellings.

18.285(3) HEIGHT REGULATIONS. Maximum Height: 35 feet.

18.285(4) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 30 feet.

18.285(4)(b) Minimum Side Yard: Zero (0) on one side provided that:

18.285(4)(b)1. The lot adjacent to that side yard is held under the same ownership at the time of initial construction of the two-family attached dwelling.

18.285(4)(b)2. The adjoining side yard setback of the lot adjacent to the zero side yard is also zero.

18.285(4)(b)3. The opposite side yard is not less than twelve (12) feet.

18.285(4)(b)4. Both units of the two-family attached dwelling are completed prior to occupancy of either unit.

18.285(4)(b)5. Easements shall be provided upon each lot as may be necessary for water, sewer, and all other utility services. Said easements shall be approved by each of the utility providers. Separate sewer and water laterals shall serve each living unit.

18.285(4)(b)6. Foundation drains shall have a separate sump and pump located in each dwelling unit.

18.285(4)(b)7. Restrictive Covenants or agreements shall be approved by the Village Plan Commission and shall be recorded at the Dodge County Register of Deeds office, providing declarations and/or by-laws similar to those typically recorded on a declaration of condominium. Said covenants shall provide for mediation of any and all disputes between owners of each unit and any third party with regard to construction, use, and maintenance of the real property. Furthermore, said covenants shall specifically state that the Village of Lomira and all approving authorities shall not be held responsible for same, and that said covenants shall inure to all heirs and assigns.

18.285(4)(b)8. Side yard setback for all other dwellings other than zero lot line attached two-family dwellings shall be twelve (12) feet.

18.285(4)(c) Minimum Rear Yard: 25 feet.

18.285(4)(d) Highway Setbacks: 1. Property which adjoins any state trunk highway, or United States Highway shall provide setbacks for the yard adjoining the highway in each category: Minimum(s) – Front Yard: 30 feet; Side Yard: 50 feet; Rear Yard: 80 feet.

18.285(4)(d)2. Property which adjoins any county trunk highway shall provide setbacks for the yard adjoining the highway in each category: Minimum(s) – Front Yard: 30 feet; Side Yard: 50 feet; Rear Yard: 50 feet.

18.285(5) PERMITTED USES. (a) Single family dwellings.

18.285(5)(b) Duplexes.

18.285(5)(c) Zero lot-line two-family attached dwellings.

18.285(5)(d) Telephone, telegraph and power distribution poles and lines, sanitary sewer, storm sewer and water facilities and necessary appurtenant equipment and structures.

18.285(5)(e) Accessory structures including: private garages, parking spaces, and carports for vehicles, and other structures clearly incidental to the residential use of the property.

18.285(6) CONDITIONAL USES. None.

18.29 C-1 CENTRAL COMMERCIAL DISTRICT. (1) PURPOSE. This district is intended to provide a suitable environment for commercial development associated with a central community location.

18.29(2) LOT SIZE REGULATIONS. (a) Minimum Area: None.

18.29(2)(b) Minimum Width: None.

18.29(3) HEIGHT REGULATIONS. (a) Maximum Height: 35 feet.

18.29(3)(b) Minimum Width: None.

18.29(4) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 10 feet.

18.29(4)(b) Minimum Rear Yard: 12 feet.

18.29(4)(c) Minimum Side Yard: 10 feet.

18.29(5) PERMITTED USES. (a) Banks and similar financial institutions.

18.29(5)(b) Laundromats, laundry and dry-cleaning establishments.

18.29(5)(c) Business and Professional Offices and Studios.

18.29(5)(d) Office Supply Stores

18.29(5)(e) Deleted with recodification 2001.

18.29(5)(f) Dental and Medical Clinics.

18.29(5)(g) Department Stores, variety stores and pet shops.

18.29(5)(h) Deleted with recodification 2001.

18.29(5)(i) Garages for storage of vehicles used in conjunction with Permitted Use.

18.29(5)(j) Hotels, Motels, Restaurants and Taverns.

18.29(5)(k) Food Stores, second hand stores, retail stores and shops offering convenience goods and services.

18.29(5)(L) Funeral Homes.

18.29(5)(m) Furniture stores and furniture upholstery shops.

18.29(5)(n) Heating and/or plumbing supply stores.

18.29(5)(o) Print Shops, sign shops, publishing shops and offices.

18.29(5)(p) Private Clubs, lodges and meeting places.

18.29(5)(q) Gas Stations and vehicle sales, service, washing and repair stations.

18.29(5)(r) Lumber Yards.

18.29(5)(s) Dwelling, single family, only as accessory to a principal use.

18.29(5)(t) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.

18.29(5)(u) Deleted with recodification 2001.

18.29(5)(v) Trade and Contractor's Offices and Storage Yard.

18.29(5)(w) Convenience Stores.

18.29(6) CONDITIONAL USES. (a) Emergency Public Shelters.

18.29(6)(b) Parks and Playgrounds

18.29(6)(c) Cemeteries.

18.29(6)(d) Auto Body Repair Work.

18.29(6)(e) Lodging Houses.

18.29(6)(f) Community Centers and Libraries.

18.29(6)(g) Planned Unit Developments.

18.29(6)(h) Mini-warehousing.

18.29(6)(i) Churches, including those related structures located on the same site which are integral part of the church proper, convents and homes of person engaged in a

religious function on the same site, provide no building shall be located nearer than twenty-five (25) feet from any lot line.

18.29(6)(j) Municipal buildings except the following: garbage incinerators, public shops and storage yards, public warehouses, and penal or correctional institutions or asylums.

18.29(6)(k) Day care center, when required to be licensed by an agency of the State of Wisconsin, where a person provides for compensation care and maintenance for 4 or more infants at a location other than the child's own home or the home of relatives or guardians. In such a center, a play area of 75 square feet per child shall be provided within a fenced area, other than a front yard. Where 3 or fewer children are cared for and maintained, such operation shall be permitted as a "home occupation."

18.29(6)(L) Public and parochial schools, colleges, universities and dormitories provided that no building shall be located nearer than twenty-five (25) feet from any lot line.

18.29(6)(m) Public transportation terminals such as bus and rail depots.

18.29(6)(n) Public and private parking garages and lots.

18.29(6)(o) Commercial entertainment facilities and Commercial recreation facilities such as:

1. Arcades	2. Bowling Alleys
3. Dance Halls	4. Gymnasiums
5. Marinas	6. Miniature Golf
7. Physical Culture	8. Pool and Billiard Halls
9. Skating Rinks	10. Theaters

18.29(6)(p) Dwelling, single family, two family, - and such use must meet minimum yard and lot size requirements of R-2 Residential District.

18.29(6)(q) Multi-family dwellings – and such use must meet minimum yard and lot size requirements of R-3 Residential District.

18.29(6)(r) Public utility and public service uses as follows:

18.29(6)(r)1. Electric substations;

18.29(6)(r)2. Gas regulator stations;

18.29(6)(r)3. Railroad rights-of-way, but not including railroad yards and shops, freight and service buildings or rights-of-way for switch, lead, or spur tracks;

18.29(6)(r)4. Sewerage system lift stations;

18.29(6)(r)5. Telephone exchanges, micro-wave relay towers and telephone transmission equipment buildings; and,

18.29(6)(r)6. Water pumping stations and water reservoirs. (m. fr. Zoning §7.01-7.06)

- 18.30 C-2 HIGHWAY COMMERCIAL DISTRICT. (1) PURPOSE. This district is intended to provide a suitable environment for commercial development which is generally associated with higher volume traffic arteries.
- 18.30(2) LOT SIZE REGULATIONS. See §18.14, of this Code.
- 18.30(3) HEIGHT REGULATIONS. Maximum Height: 35 feet.
- 18.30(4) YARD AND SETBACK REGULATIONS. (a) State Trunk or US Highway. Property which adjoins any State Trunk Highway or United States Highway shall provide setbacks for the yard adjoining the highway in each category: 1. Minimum Front Yard: 80 feet;
- 18.30(4)(a)2. Minimum Side Yard: 25 feet;
- 18.30(4)(a)3. Minimum Rear Yard: 50 feet.
- 18.30(4)(b) County Trunk Highway. Property which adjoins any County Trunk Highway or any local road shall provide setbacks for the yard adjoining the highway in each category.
- 18.30(4)(b)1. Minimum Front Yard: 50 feet;
- 18.30(4)(b)2. Side Yard: 25 feet;
- 18.30(4)(b)3. Rear Yard: 25 feet.
- 18.30(5) PERMITTED USES. (a) Dwelling, single family, only as accessory to a principal use.
- 18.30(5)(b) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.
- 18.30(5)(c) Forestry, open spaces.
- 18.30(5)(d) Offices – business, professional, public provided there is no outside storage.
- 18.30(5)(e) Medical, dental and veterinary clinics.
- 18.30(5)(f) Individual retail stores offering personal and business goods and services.
- 18.30(5)(g) Hotel and motels.
- 18.30(5)(h) Shopping and/or service centers containing two or more establishments.
- 18.30(5)(i) Drive-In establishment serving food and/or beverages.
- 18.30(5)(j) Banks and Drive-In facilities and other financial institutions.
- 18.30(5)(k) Car Washes
- 18.30(5)(L) Moved to Conditional Use during recodification 2001.
- 18.30(5)(m) Automobile Service Stations. (rn. fr. Zoning §8.05 recr. by Ord. 227, 9/3/97)

18.30(5)(n) Convenience Stores.

18.30(o) Funeral Homes.

18.30(6) CONDITIONAL USES. (a) Drive-In theaters.

18.30(6)(b) Amusement and entertainment establishments.

18.30(6)(c) Taverns and cocktail lounges.

18.30(6)(d) Lumber yards.

18.30(6)(e) Grain and feed mills.

18.30(6)(f) Animal boarding establishments.

18.30(6)(g) Truck terminals and truck stops.

18.30(6)(h) Agricultural machinery sales and repair.

18.30(6)(i) Storage and warehousing establishments.

18.30(6)(j) Planned Unit Developments.

18.30(6)(k) General farming except farms operated for the disposal of sewage, rubbish or offal, fur farms, stock farms and poultry farms.

18.30(6)(L) Truck gardening, nurseries, and greenhouses only for the propagation of plants.

18.30(6)(m) Automobile, truck, boat, machinery and recreational vehicle sales and repair.

18.30(6)(n) Day care center, when required to be licensed by an agency of the State of Wisconsin, where a person provides for compensation, care and maintenance for 4 or more infants at a location other than the child's own home or the home of relatives or guardians. In such a center, a play area of 75 square feet per child shall be provided within a fenced area, other than a front yard. Where 3 or fewer children are cared for and maintained, such operation shall be permitted as "home occupation."

18.31 BP BUSINESS PARK. (1) PURPOSE. This district is intended to provide a flexible environment suitable for commercial and light industrial development.

18.31(2) LOT SIZE REGULATIONS. See §18.14, of this Code.

18.31(3) HEIGHT REGULATIONS. Maximum height: 35 feet.

18.31(4) YARD AND SETBACK REGULATIONS. (a) State Trunk and US Highway. Property which adjoins any State Trunk Highway or United States Highway shall provide setbacks for the yard adjoining the highway in each category:

18.31(4)(a)1. Minimum Front Yard: 80 feet;

18.31(4)(a)2. Minimum Side Yard: 25 feet;

18.31(4)(a)3. Minimum Rear Yard: 50 feet.

18.31(4)(b) County Trunk Highway. Property which adjoins any County Trunk Highway or any local road shall provide setbacks for the yard adjoining the highway in each category:

18.31(4)(b)1. Minimum Front Yard: 50 feet;

18.31(4)(b)2. Minimum Side Yard: 25 feet;

18.31(4)(b)3. Minimum Rear Yard: 25 feet.

18.31(5) PERMITTED USES. All structures associated with all permitted uses shall be located at least 40 feet from any residential zoning district boundary line.

18.31(5)(a) Commercial bakeries;

18.31(5)(b) Commercial greenhouses;

18.31(5)(c) Data processing;

18.31(5)(d) Distributors;

18.31(5)(e) Farming except operated for the disposal of sewage, rubbish, or offal; fur farms; stock farms & poultry farms;

18.31(5)(f) Forestry, open spaces;

18.31(5)(g) Offices – business, professional and public;

18.31(5)(h) Hotels and motels;

18.31(5)(i) Individual retail stores offering personal and business goods and services;

18.31(5)(j) Machine shops;

18.31(5)(k) Mail order houses;

18.31(5)(L) Manufacture and bottling of nonalcoholic beverages;

18.31(5)(m) Office, storage, power supply & other such uses normally incidental to the principal use.

18.31(5)(n) Retail sales of on-site producers;

18.31(5)(o) Storage and warehousing establishments;

18.31(5)(p) Trade and contractor's offices;

- 18.31(5)(q) Utilities;
- 18.31(5)(r) Warehousing and wholesaling.
- 18.31(6) CONDITIONAL USES. All industrial district conditional uses except:
 - 18.31(6)(a) Junk yard and wrecking yards;
 - 18.31(6)(b) Stock yards;
 - 18.31(6)(c) Mineral extraction and non-grain farms;
 - 18.31(6)(d) Drive-In establishments;
 - 18.31(6)(e) Shopping or service centers containing two or more establishments.
- 18.31(7) OUTDOOR STORAGE. No outdoor storage shall be permitted unless it is screened from view from all directions and sides. (rn fr. Zoning §§8A.00 to 8A.0)
- 18.32 INDUSTRIAL DISTRICT. (1) PURPOSE. This district is intended to provide a suitable environment for industrial development.
- 18.32(2) LOT SIZE REGULATIONS. See §18.14, of this Code.
- 18.32(3) HEIGHT REGULATIONS. Maximum height: 35 feet.
- 18.32(4) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 25 feet.
 - 18.32(4)(b) Minimum Rear Yard: 40 feet.
 - 18.32(4)(c) Minimum Side Yard: 40 feet.
- 18.32(5) PERMITTED USES. All structures associated with all permitted uses shall be located at least 40 feet from any residential zoning district boundary line.
 - 18.32(5)(a) Agricultural machinery sales & repair;
 - 18.32(5)(b) Auto Body repair;
 - 18.32(5)(c) Commercial greenhouses;
 - 18.32(5)(d) Commercial bakeries;
 - 18.32(5)(e) Distributors;
 - 18.32(5)(f) General farming except farms operated for the disposal of sewage, rubbish, or offal; fur farms; stock farms & poultry farm;
 - 18.32(5)(g) Forestry, open spaces;
 - 18.32(5)(h) Gas stations;
 - 18.32(5)(i) Machine shops;

18.32(5)(j) Manufacture and bottling of nonalcoholic beverages;

18.32(5)(k) Office, storage, power supply & other such uses normally incidental to the principal use;

18.32(5)(L) Trade and contractor's offices;

18.32(5)(m) Truck terminals;

18.32(5)(n) Utilities;

18.32(5)(o) Warehousing wholesaling.

18.32(6) CONDITIONAL USES. (a) Manufacture, fabrication, processing, packaging, and packing of: Confections; Cosmetics; Electrical appliances; Electronic devices; Food; Instruments; Jewelry; Pharmaceuticals; Tobacco; Toiletries.

18.32(6)(b) Manufacture, fabrication, packing, packaging, and assembly of products from: Fur, Glass, Leather, Metals, Paper, Plastics, Plaster, Textiles, Tobacco, or Wood.

18.32(6)(c) Buildings and premises used for: Printing or publishing; Storage and sale of machinery and equipment; Airport, air strips, and landing fields; Animal hospitals or pounds; Commercial service facilities such as restaurants and fueling stations if oriented towards serving the surrounding industrial uses; Municipal buildings except penal or correctional institutions or asylums; Sewage disposal plants; Contractor's storage yard; Public passenger transportation terminals, such as heliports, bus and rail depots; Community centers and libraries; Fairgrounds; Public emergency shelters; Parks and playgrounds; Public warehouses and storage yards; and, Public garbage incinerators.

18.32(6)(d) Manufacturing and processing of: Abrasives; Acetylene; Acid; Alkalies; Ammonia; Asbestos; Asphalt; Batteries; Bedding; Bleach; Bone; Cabbage; Candles; Carpeting; Cellulose; Cement; Cereals; Charcoal; Chemicals; Chlorine; Coal; Coffee; Coke; Cordage; Creosote; Dextrine; Disinfectant Products; Dye; Excelsior, Fish; Feet; Fuel; Furs; Gelatin; Glucose; Gypsum; Hair; Ice; Ink; Insecticide; Lampblack; Lime; Linoleum; Matches; Meat; Oil Cloth; Paint; Paper; Peas Perfume; Pickle; Plaster of Paris; Plastics; Poison; Polish; Potash Products; Pulp; Pyroxylin; Radium; Rope; Rubber; Sausage; Starch; Textiles; Varnish.

18.32(6)(e) Manufacturing, processing, and storage of: Building materials; Dry Ice; Explosives; Fat; Fertilizer; Flammables; Gasoline; Glue; Grains; Grease; Lard; Radioactive materials; Shellac; Soap; Turpentine; Vinegar; Yeast. (rn. fr. Zoning §§9.00 to 9.06)

18.32(6)(f) Other Conditional Uses. Animal reduction; Bag cleaning; Bleacheries; Canneries; Cold storage warehouses; Electric and steam generating plants; Electroplating; Enameling; Forges; Foundries; Incinerators; Junk yard; Lacquering; Lithographing; Manufacturing and bottling of alcoholic beverages; Refineries; Road test facilities; slaughter houses; Smelting; Stockyards; Tanneries; Weaving; Wrecking yard; Planned Unit Developments; Farms operated for the disposal of sewage, rubbish or offal, fur farms, stock farms and poultry farms; Mineral extraction, quarrying; Utility shops; Grain and feed mills.

- 18.33 A-G AGRICULTURAL DISTRICT. (1) PURPOSE. This district is intended to provide a suitable environment for agricultural practices.
- 18.33(2) LOT SIZE REGULATIONS. (a) Minimum Area: 5 acres.
- 18.33(2)(b) Minimum Width: 300 feet.
- 18.33(3) HEIGHT REGULATIONS. Maximum Height: 35 feet.
- 18.33(4) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 50 feet.
- 18.33(4)(b) Minimum Side Yard: 30 feet.
- 18.33(4)(c) Minimum Rear Yard: 30 feet.
- 18.33(4)(d) Property Adjoining Highways. Property which adjoins any County Trunk Highway, State Trunk Highway or United States Highway shall provide setbacks for the yard adjoining the highway in each category:
- 18.33(4)(d)1. Minimum Front Yard: 50 feet;
- 18.33(4)(d)2. Minimum Side Yard: 30 feet;
- 18.33(4)(d)3. Minimum Rear Yard: 30 feet.
- 18.33(5) PERMITTED USES. (a) General farming and necessary appurtenant structures, except fur farms and farms operated for the disposal of garbage, rubbish, offal or sewage, stock farms and poultry farms.
- 18.33(5)(b) Truck gardening, nurseries and greenhouses only for the propagation of plants.
- 18.33(5)(c) Dwelling, single family and necessary appurtenant structures on any operating farm for occupancy by those employed in connection with the farm operation and their families.
- 18.33(5)(d) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.
- 18.33(5)(e) Forestry, open space harvesting of wild crops.
- 18.33(6) CONDITIONAL USES. (a) Those uses listed as conditional uses in the R-1 District:
- 18.33(6)(b) Airports, airstrips and landing fields;
- 18.33(6)(c) Kennels;
- 18.33(6)(d) Mineral extraction, quarrying;
- 18.33(6)(e) Fur farm, Stock farms and poultry farms;
- 18.33(6)(f) Radio and television towers;

18.33(6)(g) Roadside stands for the sale of farm products;

18.33(6)(h) Sanitary landfill;

18.33(6)(i) Microwave transmission towers. (rn fr. Zoning §§10.00 to 10.06)

- 18.34 EA EXCLUSIVE AGRICULTURAL DISTRICT. (1) PURPOSE. The purposes of the EA District are to preserve agricultural land, protect productive farms, maintain a viable agricultural base to support agricultural processing and service industries, prevent conflicts between incompatible uses, reduce costs of providing services to scattered nonfarm uses, pace and shape urban growth, implement the provisions of the Dodge County Farmland Preservation Plan and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under subch. 1X, ch. 71, Wis. Stats.
- 18.34(2) LOT SIZE REGULATIONS. Minimum Area: 35 acres.
- 18.34(3) HEIGHT REGULATIONS. Maximum Height: 35 feet.
- 18.34(4) YARD AND SETBACK REGULATIONS. Property which adjoins any County, State or United States highway shall provide setbacks for the yard adjoining the highway in each category:
- 18.34(4)(a) Minimum Front Yard: 80 feet;
- 18.34(4)(b) Minimum Side Yard: 30 feet;
- 18.34(4)(c) Minimum Rear Yard: 30 feet.
- 18.34(5) PERMITTED USES. (a) Agricultural Uses: Beekeeping; Commercial feedlots; Dairying; Egg production; Fish or fur farming; Floriculture; Forest and game management; Grazing; Livestock raising; Orchards; Plant greenhouses and nurseries; Poultry raising; Raising of grain, grass, mint and seed crops; Raising of fruits, nuts, berries, Vegetable raising; Sod farming.
- 18.34(5)(b) Agriculturally-Related Residences: 1. The only residences allowed are those which are to be occupied by a person who, or a family with at least one member of which, earns a substantial part of his or her livelihood from farm operators on a farm parcel, or a parent or child of the farm operator.
- 18.34(5)(b)2. Pre-existing residences located in areas subject to the EA district under this section which do not conform to this section may be continued in residential use and shall not be subject to any limitations imposed or authorized under §59.69(10), Wis. Stats. Such preexisting residence may be altered, repaired or rebuilt if destroyed, but are subject to setback, height and other dimensional requirements.
- 18.34(5)(c) Utility Uses: Gas and electric utility uses not requiring authorization under §196.491, Wis. Stats.
- 18.34(5)(d) Home Occupations and Professional Offices. Home occupations and professional offices conducted within and accessory to a permitted agricultural residence.

- 18.34(6) CONDITIONAL USES. (a) Dams and flowages;
- 18.34(6)(b) Facilities for the centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets;
- 18.34(6)(c) Facilities used in processing of agricultural products;
- 18.34(6)(d) Facilities used to provide veterinarian services for livestock;
- 18.34(6)(e) Governmental uses such as fire and police stations, highway storage garages, solid waste disposal and sewage treatment plants, gravel pits and quarries, schools, parks and campgrounds and airports and, landing strips;
- 18.34(6)(f) Other agricultural-related, religious, utility, institutional or governmental uses similar to those listed in §18.34(5) which are compatible with the purposes of this district, which do not conflict with agricultural use and which are found necessary in light of alternative locations available for such uses;
- 18.34(6)(g) Paddocks;
- 18.34(6)(h) Religious uses such as churches, schools and cemeteries;
- 18.34(6)(i) Sale and service of machinery used in agricultural production;
- 18.34(6)(j) Sawmills;
- 18.34(6)(k) Stables;
- 18.34(6)(L) Temporary housing for seasonal setback farm labor;
- 18.34(6)(m) The storage and sale of seed, feed, fertilizer and other products essential to agricultural production;
- 18.34(7) STANDARDS FOR CONDITIONAL USES. The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any conditional uses. In passing upon applications for conditional uses, the Plan Commission shall consider the following relevant factors:
- 18.34(7)(a) The statement of purposes of the zoning ordinance and the EA district.
- 18.34(7)(b) Potential for conflict with agricultural use.
- 18.34(7)(c) Need of the proposed use for a location in an agricultural area.
- 18.34(7)(d) Availability of alternative locations.
- 18.34(7)(e) Compatibility with existing or permitted uses on adjacent lands.
- 18.34(7)(f) Productivity of the lands involved.
- 18.34(7)(g) Location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.

18.34(7)(h) Need for public services created by the proposed use.

18.34(7)(i) Availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.

18.34(7)(j) The effect of the proposed use on water or air pollution, soil, erosion and rare or irreplaceable natural resources. (rn. fr. Zoning §§10A.00 to 10A.07)

18.35 C-O CONSERVANCY DISTRICT. (1) PURPOSE. This district is intended to protect natural resources. Generally, this district may include swamps, marshlands, river and lake shore and other land of natural aesthetic value.

18.35(2) LOT SIZE REGULATIONS. See §18.14, of this code.

18.35(3) HEIGHT REGULATIONS. Maximum height: 35 feet.

18.35(4) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 30 feet.

18.35(4)(b) Minimum Side Yard: See §18.14, of this code.

18.35(4)(c) Minimum Rear Yard: 35 feet.

18.35(5) PERMITTED USES. (a) General farming provided no drainage, filling or dredging takes place and no farm buildings are constructed.

18.35(5)(b) The harvesting of any wild crop such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds. Sustained yield forestry, open spaces.

18.35(5)(c) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.

18.35(5)(d) Hunting and fishing.

18.35(5)(e) Preservation of scenic, historic and scientific areas, wildlife preserves.

18.35(5)(f) Nonresident buildings used solely in conjunction with the raising of waterfowl, minnows and other similar lowland animals, fowl or fish.

18.35(5)(g) Hiking trails and bridle paths.

18.35(5)(h) Public and private parks.

18.35(5)(i) Golf courses.

18.35(6) CONDITIONAL USES. Dams, power plants, flowages; Filling, drainage, dredging; Nonresidential farm structures; Piers, docks, boat houses not for human occupancy; Ponds; Utilities; Relocation of water courses; Removal of top soil or peat. (rn. fr. Zoning §§11.00 to 11.06, Rev. 9/89)

18.36 F-P FLOODPLAIN DISTRICT. (1) PURPOSE. This district is intended to protect the public health, safety and general welfare, and to minimize flood losses in areas subject to flood hazard.

18.36(2) GENERAL PROVISIONS. (a) Application: The provisions for this district apply to all floodplains of rivers and streams in the Village of Lomira for which regional flood data, as defined in §18.07 are not available. As regional flood data becomes available for portions of this district, such portions shall be placed in the Regional Floodplain or Regional Floodway District, as appropriate. (rn. fr. Zoning §12.02)

18.36(2)(b) Abrogation. (Cr. During codification 1999) This section is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this section imposes greater restrictions, the provisions of this section shall prevail.

18.36(2)(c) Description of District: The Floodplain District shall include all lands so mapped on the Official Zoning Map, Lomira, Wisconsin.

18.36(2)(d) Special Provisions: The following regulations shall apply to all uses within the Floodplain District, notwithstanding that such uses may be specifically permitted under the terms of this section.

18.36(2)(d)1. The flood protection elevation or height shall correspond to a point 2 feet above the flood elevation or “flood profile” shown on or attached to the flood map for a particular area. When flood elevation or flood profiles are not available for delineated floodplains, the flood protection level shall be 2 feet above the estimated regional flood elevation as determined through the Conditional Use procedures in §18.37(2), of this code.

18.36(2)(d)2. No structure temporary or permanent, fill, including fill for roads and levees, deposit, obstruction, storage of materials, or floodplain uses shall be permitted that adversely affects the “storage capacity of the floodplains” based on the assumption that there will be an “equal degree of encroachment” extending for a significant “reach” on both sides of the stream.

18.36(2)(d)3. No floodplain uses shall adversely affect the efficiency of or unduly restrict the capacity of the channel or floodway of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

18.36(2)(d)4. Compliance with the provisions of this section shall not be grounds for the removal of lands from the Floodplain District unless such lands are filled to a height of at least two feet above the elevation of the “regional flood” for the particular area and are contiguous to other lands lying outside the Floodplain District.

18.36(2)(e) Warning and Disclaimer of Liability: The degree, of flood protection intended to be provided by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Therefore, this section does not imply that areas outside of the designated Floodplain District boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages. Nor shall this section create a liability on the part of, or a cause of action against, the Village of Lomira or any officer or any employee thereof for any flood damage that may result from reliance on this section.

18.36(2)(f) Flood Proofing: Conditional uses requiring flood proofing measures such as the following shall be designed consistent with the flood protection elevation for the particular area and flood velocities, forces and other factors associated with the flood protection elevation. The Plan Commission shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the flood protection elevation for the particular area.

18.36(2)(f)1. Anchorage to resist flotation and lateral movements.

18.36(2)(f)2. Installation of watertight doors, bulkhead and shutters.

18.36(2)(f)3. Reinforcement of walls to resist pressures.

18.36(2)(f)4. Use of paints, membranes or mortars to reduce seepage of water through walls.

18.36(2)(f)5. Addition of mass or weight to structures to resist flotation.

18.36(2)(f)6. Installation of pumps to lower water levels in structures.

18.36(2)(f)7. Pumping facilities for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.

18.36(2)(f)8. Construction of water supply and waste treatment systems to prevent the entrance of flood waters.

18.36(2)(f)9. Construction to resist rupture or collapse caused by water pressure or floating debris.

18.36(2)(f)10. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

18.36(2)(g) INTERPRETATION. (Created during codification 1999) The interpretation and application of the provisions of this section shall be held to be minimum requirements liberally construed in the favor of the Village Board, and shall not be deemed a limitation on or the repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this section is required by a standard in Wis. Adm. Code, Ch. NR 116, and where the section provision is unclear, the provision shall be interpreted in light of ch. NR 116 standards in effect on the date of the adoption of this section or in effect on the date of the most recent text amendment to this section.

18.36(3) LOT SIZE REGULATIONS. See §18.14, of this code.

18.36(4) HEIGHT REGULATIONS. Maximum Height: 35 feet.

18.36(5) YARD AND SETBACK REGULATIONS. (a) Minimum Front Yard: 30 feet.

18.36(5)(b) Minimum Side Yard: See sec. 18.14, this code.

18.36(5)(c) Minimum Rear Yard: 35 feet.

18.36(5)(d) Minimum Water Setback: 75 feet.

18.36(6) PERMITTED USES. The following open space and agricultural uses:

18.36(6)(a) General farming provided no drainage, filling or dredging takes place and no farm buildings are constructed.

18.36(6)(b) The harvesting of any wild crop such as marsh-hay, ferns, moss, wild rice, berries, tree fruits and tree seeds.

18.36(6)(c) Sustained yield forestry.

18.36(6)(d) Public and private recreational uses not requiring permanent or temporary structures designed for human habitation such as: 1. Bridle paths; 2. Fish hatcheries;

18.36(6)(d)3. Game farms;

18.36(6)(d)4. Golf courses;

18.36(6)(d)5. Hunting, fishing and hiking areas;

18.36(6)(d)6. Parks and swimming areas;

18.36(6)(d)7. Picnic grounds;

18.36(6)(d)8. Scenic, historic and scientific areas;

18.36(6)(d)9. Wildlife and nature preserves;

18.36(6)(e) Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures.

18.36(6)(f) Non-resident buildings used solely in conjunction with the raising of waterfowl, minnows and other similar lowland animals, fowl or fish.

18.36(7) CONDITIONAL USES. (rn. and recr. fr. Zoning 12.00 to 12.07) (a) Structures Accessory to Permitted Uses. Structures accessory to Permitted Uses, whether temporary or permanent may be permitted only upon a determination by the Village Plan Commission pursuant to a finding under the procedure required by §18.37, Conditional Uses of this code that:

18.36(7)(a)1. Structures will not be designed for human habitation;

18.36(7)(a)2. Structures will have a low flood damage potential;

18.36(7)(a)3. The structure or structures, if permitted, will be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters;

18.36(7)(a)3.a. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of the flow of flood waters.

18.36(7)(a)3.b. So far as practicable, structures will be placed so their longitudinal axes are approximately on the same line as those of adjoining structures.

18.36(7)(a)4. Structures will be firmly anchored to prevent the structure or building from floating away and thus threatening to further restrict bridge opening and other restricted sections of the stream or river.

18.36(7)(a)5. Service facilities such as electrical and heating equipment will be at or above the flood protection elevation for the particular area.

18.36(7)(b) Other Structures Temporary or Permanent. Other structures temporary or permanent may be permitted only upon a finding by the Plan Commission that: 1. Such structures shall comply with §§(7)(a)3., 4., and 5.

18.36(7)(b)2. The first floor, or basement floor of a structure to be erected, constructed, reconstructed, or moved on the floodplain shall be constructed on fill at or above the flood protection elevation for the particular area. The fill shall be not less than one foot above the flood elevation for the particular area and the fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon.

18.36(7)(b)3. Such structures shall not be in the floodway as determined through §18.36(2), of this code.

18.36(7)(c) Fills or Deposition of Materials. Fills or deposition of materials may be permitted only upon a finding by the Plan Commission that: 1. Any fill or deposition of materials will comply with §18.36(2), of this code.

18.36(7)(c)2. The fill or deposition of materials will have some beneficial purpose and the amount thereof will not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the final dimensions of the proposed fill or other material and the use to which the filled land will be put.

18.36(7)(c)3. The fill or deposition of materials does not encroach on the channel area between the ordinary high water marks on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to §30.12, Wis. Stats., and the other requirements of this section are met.

18.36(7)(c)4. The fill of other materials will be protected against erosion by rip-rap, vegetative cover or bulk heading.

18.36(7)(d) Injurious Materials. The storage or processing of materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, shall be at or above the regional flood protection elevation for the particular area or flood proofed in compliance with §18.36(2), of this code.

18.36(7)(e) Utility Facilities. Utility facilities such as: dams, flowage areas, pipelines, power plants, water monitoring devices; development subject to permits and regulations pursuant to Ch. 30 and 31, Wis. Stats.; piers, docks and boathouses; and, non-residential farm structures.

18.36(7)(f) Dredging, Grading, and Lagooning. Dredging, grading, and lagooning in compliance with §18.39 of this code.

CONDITIONAL USES

- 18.37 CONDITIONAL USES. (1) PURPOSE. The Plan Commission may authorize the Village Clerk/Treasurer to issue a Conditional Use Permit for permitted conditional uses after review and a public hearing, provided that such conditional uses or structures are in accordance with the purpose and intent of this Chapter and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the area.
- 18.37(2) APPLICATION. Applications for Conditional Use Permits shall be made in duplicate to the Village Clerk/Treasurer on forms provided by said office. Such applications shall be forwarded to the Plan Commission on receipt by the Village Clerk. Such applications shall include where applicable:
- 18.37(2)(a) Names and Address. The names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
- 18.37(2)(b) Description of the Subject Site. The description of the subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- 18.37(2)(c) Plat. The plat of Survey prepared by a registered land surveyor showing all of the information required under §18.11 for a Building Permit and existing and proposed landscaping.
- 18.37(2)(d) Additional Information. Additional Information as may be required by the Plan Commission or other boards, commissions, or officers of the Village.
- 18.37(2)(e) Fee Receipt. Fee Receipt in the amount of \$150.
- 18.37(3) REVIEW AND APPROVAL. (a) Plan Commission Review. The Plan Commission shall review the site; existing and proposed structures and architectural plans; parking areas, driveway locations; highway access, traffic generation and circulation; drainage, sewerage and water systems; operation; conditions which will effect the maintenance of safe and healthful conditions, prevention and control of water pollution including sedimentation, the location of the site with respect to floodplains and the compatibility of the proposed use with the use of adjacent land.
- 18.37(3)(b) Additional Review Conditions. Upon consideration of the factors listed above, the Plan Commission may require such conditions, in addition to those listed elsewhere in this Chapter, as it deems necessary in furthering the purpose of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: landscaping, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, increased setbacks and yards, type of shore cover, specified sewage disposal and water supply systems, planting screens, piers and docks, signs, or any other requirements necessary to fulfill the purpose and intent of this section.
- 18.37(3)(c) Violations. Violation of any of these conditions shall be deemed a violation of this chapter.

- 18.37(4) PLANS. (a) In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:
- 18.37(4)(a)1. A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover;
- 18.37(4)(a)2. Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
- 18.37(4)(a)3. Plans for buildings, sewage disposal facilities, water supply systems, and arrangements of operations;
- 18.37(4)(a)4. Specifications for areas of proposed fillings, grading, lagooning or dredging;
- 18.37(4)(a)5. Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter and section.
- 18.37(4)(b) The Plan Commission in evaluating each application, may request assistance from other local, county, state or federal agencies.
- 18.37(5) PUBLIC HEARINGS. (a) Hearing Required. Public Hearings on applications shall be held within one (1) month by the Plan Commission.
- 18.37(5)(b) Published Notice and Notification Required. 1. Class 1 Notice. There shall be published a Class 1 notice as provided in ch. 985, Wis. Stats.
- 18.37(5)(b)2. Notification to Property Owner(s). The Village Clerk/Treasurer shall notify all abutting or opposite property owners, as listed by the applicant in the original applications, of the time, date, and subject matter of the hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
- 18.37(6) COMPLIANCE. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses except as modified by this Section. Variances shall only be granted as provided in §18.42.
- 18.37(7) PERMITS. No permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons including, but not limited to, smoke, dust, odors, noise, vibration, lighting, health hazards or possibility of accident.
- 18.37(8) CONDITIONS FOR SELECTED CONDITIONAL USES. (a) Planned Unit Developments Allowed. Planned unit developments (PUD) are permitted as conditional uses in all zoning districts except the Conservancy District. PUD is intended to permit the development of planned developments containing not less than ten (10) contiguous acres under one ownership or control.
- 18.37(8)(b) Housing Accommodations and Land Uses. Within such planned communities, the location of all residential, commercial, industrial and governmental uses, school sites, parks, playgrounds, recreation areas, parking areas and other open

spaces shall be controlled in such a manner as to permit a variety of housing accommodations and land uses in orderly relationship to one another.

18.37(8)(c) Permit Procedures. The procedure for obtaining a permit for the development of a PUD shall be as outlined in §18.36 of this Code, except that the following requirements shall also apply:

18.37(8)(c)1. The applicant shall provide proof that the site under consideration contains a minimum land area of not less than 10 acres under one ownership or control. Additional land area may be added to an existing PUD if it is adjacent or forms a logical addition to an existing PUD. The procedure for an addition shall be the same as if an original application were filed, and all of the requirements of this article shall apply except the minimum acreage requirement of 10 acres.

18.37(8)(c)2. The applicant shall furnish with his application for a Conditional Use Permit 15 copies of a preliminary plan, prepared or certified by a surveyor or engineer showing the proposed general layout, the general location of the various types of land uses, the proposed densities of population in residential areas, a major thoroughfare plan, a public utility plan if public utilities are proposed or required, a storm drainage plan and a plan showing the location of recreation spaces, parks, schools, and other public or community uses.

18.37(8)(c)3. Following approval by the Plan Commission and Village Board of a preliminary plan, the applicant shall furnish 15 copies of a final plan of any section of not less than 4 acres of the land shown on the preliminary plan, prepared or certified by a surveyor or engineer duly authorized by the State to practice as such, showing the layout of areas, pedestrian ways, utility easements, lot lines, open spaces, parks, recreation areas, school sites, playgrounds, the proposed use of all buildings and the metes and bounds of all dedicated areas and lots.

18.37(8)(c)3g. The applicant shall also furnish a proposed deed of dedication including restrictions safeguarding the use of open spaces and preventing encroachment upon open spaces between buildings.

18.37(8)(c)3m. The applicant shall furnish a deed, to land determined by the Village to be needed for public elementary and intermediate school purposes.

18.37(8)(c)4. When the final plan and deed of dedication shall have been approved by the Plan Commission and Village Board as being in conformity with this section and with any changes or requirements of the Plan Commission and Village Board on the preliminary plan, it shall be approved for recordation and recorded. Thereafter, no modification may be made in any final plan except: by an amended final plan submitted as provided for the original plan.

18.37(8)(c)5. In granting a permit for the development of PUD the Plan Commission and Village Board shall make the following determinations: a. That the overall population density shown on the PUD plan for residential and associated industrial and commercial uses shall not exceed an average density of 11 persons per acre. In computing population density, a factor of 3.7 persons shall be used per one family dwelling, 3 persons per garden-type apartment unit or town house and 1.5 persons per high rise apartment unit.

18.37(8)(c)5.b. That a maximum of 3 residential density areas are shown on the PUD plan. Such density areas shall be designated low, medium and high. i. The population density within a low density area shall not exceed 3.8 persons per acre of gross residential area.

ii. The population density within a medium density area shall not exceed 14 persons per acre of gross residential area.

iii. The population density within a high density area shall not exceed 60 persons per acre of gross residential area.

18.37(8)(c)5.c. That in computing average density on any final plan of a part of a PUD, which at the time of its creation was under one ownership or control, any excess in land area over that required to support an average density of 13 persons per acre of gross residential area in any final plan previously recorded may be included. In other words, as each successive final plan is submitted, the overall density of all areas shown on recorded final plans within the proposed PUD as approved by the Plan Commission and Village Board shall be recomputed so that the average population density of the developed areas within the recorded sections of the PUD shall never at any time in the history of the development exceed a density of 13 persons per acre.

18.37(8)(c)5.d. That the uses shall be as shown on the preliminary plans.

18.37(8)(c)5.e. That the location of all structures and designated building envelopes shall be as shown on final plans. Building envelopes must be protected by adequate covenants running with the land, conveyances, or dedications.

18.37(8)(c)5.f. The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood.

i. Open spaces between structures shall be protected where necessary by adequate covenants running with the land, conveyances or dedications.

ii. There shall be no minimum lot size, no minimum setback lines, no maximum percentage of lot coverage, and no minimum lot width in the PUD. However, every single family dwelling shall have access to a public street, court, walkway or other area dedicated to public use and no single family dwelling (except a town house or semi-detached dwelling) and no addition to any single family dwelling shall be erected within a distance of less than 16 feet from any other single family dwelling.

18.37(8)(c)5.g. That the owner has bonded himself and his contractor(s) to make the required improvement(s) within a reasonable length of time.

18.37(8)(d) Non-Farm Residential Uses in Agricultural District. In granting a Conditional Use Permit for non-farm residential uses in the Agricultural District, the Plan Commission shall make the following determinations:

18.37(8)(d)1. That the proposed residential uses will not adversely affect agricultural operations in surrounding areas or be so situated that future inhabitants of such residences might be adversely affected by agricultural operations in surrounding areas;

18.37(8)(d)2. That the site(s) of the proposed residential uses are not well suited for agricultural use by virtue of wooded areas, topography, shape of parcel, soil characteristics, and similar factors;

18.37(8)(d)3. That the site(s) proposed for residential use is particularly well suited for such use as indicated by rolling topography, wooded areas, soil types, vistas, proximity to lakes or streams or other similar factors, proximity to school bus routes, traffic access and egress, established transportation routes, and adequacy of area schools to accommodate increased enrollment that might result from such development.

18.37(8)(e) Mineral Extraction (Quarrying). Applications requesting Plan Commission approval of a proposed quarrying activity shall be accompanied by: 1. A description of all phases of the contemplated operation including types of machinery and equipment which will or might be necessary to carry on the operation. Where the operation is to include sand and gravel washing, the estimated daily quantity of water required, its source and its disposition shall be identified.

18.37(8)(e)2. A legal description of the proposed site.

18.37(8)(e)3. A topographic map (at a minimum contour interval of 5 feet) of the proposed site and the area extending beyond the site to a minimum distance of 300 feet on all sides.

18.37(8)(e)4. A restoration plan as hereinafter required.

18.37(8)(e)5. Consideration of compatibility: in reviewing a proposal for a quarrying activity, the Plan Commission shall take into consideration: a. The effect of the proposed operation on drainage and water supply, particularly in connection with sand and gravel washing.

18.37(8)(e)5.b. The possibility of soil erosion as a result of the proposed operation.

18.37(8)(e)5.c. The most suitable land use for the area, and its effect on the land use in adjacent areas.

18.37(8)(e)6. Restoration Plan and Financial Guarantee Required. a. Plan Commission approval. No grant to carry on a quarrying operation shall be given until the Plan Commission approves a restoration plan and the owner agrees to restore the quarried area to a condition of practical usefulness and reasonable physical attractiveness as provided in the conditional use permit or within 6 months after the quarrying operations have ceased.

18.37(8)(e)6.b. Owner to provide financial guarantee. The owner shall provide sufficient financial guarantee to secure the performance of the restoration agreement.

18.37(8)(e)6.c. Forms approved by Village attorney. The agreement and financial guarantee shall be in a form approved by the Village attorney.

18.37(8)(e)7. Conditions for Approval., The Plan Commission may set forth conditions regarding appropriate setback and other dimensional requirements, particularly with reference to avoiding a nuisance effect on surrounding residential uses. Suitable fencing and landscaping may be required.

18.37(8)(e)8. Duration of Conditional Grant. The initial grant to carry on a quarrying operation shall not be effective for more than five years. Authorization may be extended for three additional years, subject to conditions specified by the Plan Commission. (m. fr. Zoning §§13.00 to 13.08, rn. by codification 1999)

TRAFFIC, PARKING AND ACCESS

18.38 TRAFFIC, PARKING AND ACCESS. (1) TRAFFIC VISIBILITY. No obstructions, such as structures, parking or vegetation, shall be permitted between the heights of 2 ½ feet and 10 feet above the plane through the mean curb grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of 15 feet from their intersection. This regulation shall not apply to the trunks of trees and posts not over 6 inches square or in diameter.

18.38(2) LOADING REQUIREMENTS. In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading do not completely block any lane of traffic.

18.38(3) OFF-STREET PARKING REQUIREMENTS. In all districts in connection with every use or structure, except those in existence prior to the effective date of the ordinance, there shall be provided, at the time any use or building is erected, enlarged, extended, or increased off-street parking spaces for all vehicles in accordance with the following:

18.38(3)(a) Adequate Access: Adequate access to a public street shall be provided for each parking space, and driveways shall be at the curb at least 16 feet wide for one-and two-family dwellings and a minimum of 24 feet for all other uses.

18.38(3)(b) Size: Each parking space shall be a minimum of 10 feet wide by 20 feet long, exclusive of the space required for ingress and egress.

18.38(3)(c) Location: Location to be on the same lot as the principal use or not over 400 feet from the principal use.

18.38(3)(d) Collective Provision: Off street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use and provided that all regulations governing location of accessory parking spaces in relation to the use served are adhered to.

18.38(3)(e) Design: The required number of parking areas shall be graded and surfaced so as to be dust free and properly drained. All parking areas shall be arranged to provide for orderly and safe parking. Curbs and barriers shall be installed to prevent parked vehicles from extending over any lot lines or public ways.

18.38(3)(f) Maintenance: The owner of property used for parking shall maintain such area in good condition without holes, and free of dust, trash, and other debris.

18.38(4) NUMBER OF OFF-STREET PARKING SPACES REQUIRED. For purposes of this ordinance the following off-street parking space requirements shall apply:

TYPE OF USE	PARKING SPACE REQUIRED

Residential	
One-and Two- Family Dwellings	Two (2) for each unit
Mobile Homes	Two (2) for each unit
Multi-Family Dwellings	Two (2) for each unit
Boarding houses, rooming houses, lodges, fraternity and sorority houses, dormitories	One (1) for each sleeping room plus one (1) for each employee
Commercial and Service	
Automobile Service Stations which also provide repair	One (1) for each employee plus four (4) for each service bay
Hotels, Motels	One (1) for each sleeping room plus one (1) for each employee
	One (1) for each employee plus reservoir
Automobile washing and cleaning establishments	Space equal to five (5) times the capacity of each place of the laundry process
Funeral homes, mortuaries and similar type uses	One (1) for each ten (10) square feet of visitation area
Bowling alleys	Four (4) for each lane plus additional spaces for affiliated uses based on requirements in this Chapter
Restaurants, bars, night clubs, and similar uses with indoor serving areas	One (1) for each employee plus one (1) for each twenty (20) square feet of customer area
Auditoriums, sports arenas, theaters, and other places of public assembly	One (1) for each three (3) seats or spaces equal to thirty-three (33) per cent of capacity in persons, whichever is greater
Retail Stores	One (1) for each two hundred (200) feet of customer area plus one (1) for each employee
Banks, financial institutions, business and professional offices, and similar uses	One (1) for each employee plus one (1) for each two hundred (200) square feet of customer and office area
Medical and dental clinics	One (1) for each one hundred and fifty (150) square feet of floor area
Other business and commercial uses	One (1) for each two hundred (200) square feet of floor area plus one (1) for each employee
Institutional	
Churches and other places of religious assembly	One (1) for each three (3) seats or one (1) for each forty (40) lineal inches of pew space
Hospitals	One (1) for each bed
Sanitariums, nursing and rest homes, children's homes, and similar uses	One (1) for each, two (2) beds
Libraries, museums, art galleries, etc.	One (1) for each six hundred (600) square feet of floor area
Elementary and junior high schools	Two (2) for each classroom plus one (1) for every three (3) seats in auditoriums or assembly halls
High schools, colleges, universities and other institutions of higher learning	One (1) for every four (4) students plus one (1) for each teacher, administrator

	and employee
Business, technical and trade schools	One (1) for each three (3) students plus one (1) for each employee
Industrial	
All types of manufacturing and processing plants, laboratories, warehouses, storage and wholesale uses	One (1) for each employee (on the largest shift for which the building is designed) plus one (1) for each motor vehicle maintained on the premises
Cartage, express and parcel delivery, freight terminals	One (1) for each employee (on the largest shift for which the building is designed) plus one (1) for each motor vehicle maintained on the premises

18.38(5) GENERAL INTERPRETATIONS. In the interpretation of this section, the following definitions and rules shall apply: (a) In the case of structures or uses not mentioned the provisions for a use which is similar shall apply and shall be determined by the Building Inspector.

18.38(5)(b) Parking spaces for uses not similar to those mentioned in this section shall be determined by the Plan Commission.

18.38(5)(c) Combinations of any of the above uses shall provide the total of the number of spaces required for each individual use.

18.38(5)(d) Fractional numbers shall be increased to the next whole number. (m. fr. Zoning 14.00 to 14.05 m. by codification 1999)

FILLING, GRADING AND LAGOONING

18.39 FILLING, GRADING AND LAGOONING. (1) PROHIBITION. Filling, grading, lagooning or dredging which would result in substantial detriment to navigable waters by reason of erosion, sedimentation or impairment of fish and aquatic life shall be prohibited.

18.39(2) FILLING AND GRADING. A conditional use permit for filling and grading shall be required in the following instances: (a) Any proposed grading or filling in a Floodplain or Conservancy Zoning District or of the bed of a navigable body of water.

18.39(2)(a)1. Such grading or filling shall be carefully evaluated for its impact in accordance with sec. (1), supra.

18.39(2)(a)2. The Plan Commission shall evaluate the proposal for conformance with all applicable State and local regulations and may refer the proposal to any State or local governmental agency for advice and/or technical assistance.

18.39(2)(b) Any proposed grading or filling of any area which is within 300 feet horizontal distance of the high water mark of a navigable body of water and which has surface drainage toward the water and on which there is:

18.39(2)(b)1. Filling of more than 500 square feet of any wetland which is contiguous to the water.

18.39(2)(b)2. Filling or grading on slopes of 20 percent or more.

18.39(2)(b)3. Filling or grading of more than 1,000 square feet on slopes of 12-20 percent.

18.39(2)(b)4. Filling or grading of more than 2,000 square feet on slopes of 12 percent or less.

18.39(2)(c) Any proposed grading or filling of an area of more than 2,000 square feet that would create or alter slopes of 10 percent or more.

18.39(3) LAGOONING AND DREDGING. (a) Conditional Use Permit Required. A conditional use permit shall be required before constructing, dredging or commencing work on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet of the high water mark of a navigable body of water or where the purpose is ultimate connection with a navigable body of water.

18.39(3)(b) Exempted Practices. This requirement does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.

18.39(3)(c) Application Review. The Plan Commission shall evaluate each application and may request expert assistance from state, federal and local agencies.

18.39(4) CONDITIONS ATTACHED TO PERMIT. In granting a conditional use permit for filling, grading, or lagooning, the Plan Commission may attach the following conditions in addition to those specified in §12.03 of this Code:

18.39(4)(a) That the smallest amount of bare ground be exposed for the shortest time feasible.

18.39(4)(b) Temporary ground cover such as mulch be used and permanent cover such as sod be planted.

18.39(4)(c) Diversions, silting basins, terraces and other methods to trap sediment be used.

18.39(4)(d) Lagooning be conducted in such a manner as to avoid creation of fish trap conditions.

18.39(4)(e) Fill is stabilized according to accepted engineering standards.

18.39(4)(f) That fill will not restrict a floodway or destroy the storage capacity of a floodplain.

18.39(4)(g) Sides of a channel or artificial water course be stabilized to prevent slumping.

18.39(4)(h) Sides of channels or artificial water course be constructed with slopes of 2 horizontal to 1 vertical or flatter, unless vertical bulkheads or rip rapping are provided.

18.39(5) STATE AGENCY PERMITS. Any state agency permits shall be required as applicable and the granting of a conditional use permit by the Plan Commission shall not be

regarded as necessarily satisfying state and/or local permit requirements. (rn. from Zoning 15.00 to 15.05)

MODIFICATIONS

18.40 MODIFICATIONS. (1) HEIGHT. The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

18.40(1)(a) Architectural projections, such as spires, belfries, parapet walls, cupolas, dooms, flues and chimneys, are exempt from the height limitations of this Chapter.

18.40(1)(b) Special Structures, such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smoke stacks and flag poles are exempt from the height limitations of this Chapter.

18.40(1)(c) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.

18.40(1)(d) Communication Structures, such as radio and television transmission and relay towers, aerials and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

18.40(1)(e) Agricultural Structures, such as barns, silos, and windmills, shall not exceed in height twice their distance from the nearest lot line.

18.40(1)(f) Public or Semi-Public Facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased not less than 1 foot for each 1 foot the structure exceeds the district's maximum height requirement.

18.40(2) YARDS. The yard requirements stipulated elsewhere in this Chapter may be modified as follows: (a) Uncovered Stairs. Landings and Fire Escapes may project into any yard but not to exceed 6 feet and not closer than 3 feet to any lot line.

18.40(2)(b) Architectural Projections. Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard; but such projection shall not exceed 2 feet.

18.40(2)(c) Residential Fences and Hedges. Residential fences and hedges shall be located a minimum of 2 feet from any property line; except fences, hedges and landscaping may be placed on the lot line when both property owners sign a written agreement to that effect and file it with the Village Clerk/Treasurer. Fences and hedges shall not exceed a height of four feet from the ground to the top, in the front yard. Fences shall not exceed a height of six feet in side and rear yards, measured from the ground to the top. Hedges shall be trimmed to maintain the two foot setback, and shall comply with §18.38(1).

18.40(2)(d) Commercial and Industrial Fences. Commercial and industrial fences shall be located a minimum of 2 feet from any property line, except that commercial and industrial fences may be placed on lot lines when both property owners sign a written

agreement to that effect and file said agreement with the Village Clerk/Treasurer. Commercial and industrial fences shall not exceed 10 feet in height, measured from the ground to the top, and shall be of an open type, similar to woven wire or wrought iron. Fences of all types shall be maintained in a neat, sightly manner, and shall not pose a danger to life or limb. The building inspector may condemn any fence not so maintained.

18.40(2)(e) Accessory Uses and Structures. Accessory Uses and detached accessory structures, are permitted in the rear yard only; they shall not be closer than 10 feet to principle structure, they shall not exceed 15 feet in height, shall not occupy more than 30 percent of the rear yard area and shall not be closer than 6 feet to any lot line.

18.40(2)(f) Exempt from yard and Distance Requirements. Essential Services, utility, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

18.40(2)(g) Green Space Required. (rn. fr. Zoning §16.02(7) as rcr. By Ord. 228, 1997) Green space will include grass, trees, shrubs, flowers, gardens, decorative bark and decorative stone, Area requirements will be based on the size of the lot or building parcel beginning at the curb or roadside. All property shall have green space between the street and the sidewalk (the terrace). There shall also be a strip of green space, a minimum of 15 feet wide, along the inside of the public sidewalk opposite the terrace. The terrace area will not be included in determining if the total green space requirement has been met.

18.40(2)(g)1. Lots in R-1 and R-2 Residential Districts for single-family homes shall have a minimum of 60% green space.

18.40(2)(g)2. Lots in R-1, R-2 and R-3 Residential Districts for duplexes or multi-family dwellings shall have a minimum of 25% green space.

18.40(2)(g)3. Commercial, Industrial and Business Park property (C-1, C-2, I and BP) shall have a minimum of 15% green space.

18.40(3) SWIMMING POOLS. (a) Permit Required. No swimming pools shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building permit and without being in conformity with the provisions of this Chapter.

18.40(3)(b) Fencing Required. Every person who owns, operates, uses, has custody or control of, or has the right to use any swimming pool located in the Village shall erect and maintain a fence or barriers around such swimming pool to prevent children from falling into such swimming pool subject to the following specifications:

18.40(3)(b)1. Permanent pools shall be completely isolated from adjoining properties by a 50 inch high fence which must be constructed and maintained in good state of repair and appearance;

18.40(3)(b)2. Above ground pools must have pool side walls or fencing completely surrounding it or a combination thereof which total a minimum of 40 inches in height above grade;

18.40(3)(b)3. Portable pools over one foot in depth must be drained, fenced, or covered in such a manner as to provide public safety after each day's use.

18.40(3)(c) Location and Yard Requirements. 1. No swimming pool shall be erected to the front or side of the residence of the owner or occupant of the premises connected therewith unless side yard requirements as described in §2.06 of this code can still be met in the area between the pool and property line;

18.40(3)(c)2. No swimming pool shall be constructed on property which would make them incapable of conforming to present requirements in §18.40(3) of this Code.

18.40(3)(d) Satellite Antennas. 1. Permit Required. Permit required for antennas larger than 2 feet in diameter. No satellite antenna shall be located, erected, moved, etc.

18.40(3)(d)2. Location. No satellite antenna shall be erected to the front or sides of a residence of the owner or occupant of the premises. No satellite antenna shall be placed closer than 12 feet to the nearest lot line.

18.40(3)(d)3. Connection, Electrical Lines. All electrical lines, cables and conduits running to or from any satellite antenna must be buried. The location of all underground lines, cables, and conduits shall be shown on the application for permit.

18.40(3)(d)4. Wind Pressure. Each satellite antenna shall be securely anchored to withstand a maximum wind pressure anticipated, taking into consideration the size, shape and weight of all its components.

18.40(3)(d)5. Height. No satellite antenna, greater than two feet in diameter, shall be at a height greater than 12 feet above ground. (This section, m. fr. Zoning §§16.01 to 16.03)

SIGNS

18.41 SIGNS. (1) PERMIT REQUIRED. Except those specified in §18.41(2), no signs shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a Building Permit and without being in conformity with the provisions of this Chapter. All signs shall also meet all the structural requirements of other applicable codes and ordinances of the Village.

18.41(2) SIGNES EXCEPTED. All signs must have a building permit except the following: (a) Signs Over Show Windows or Doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed 2 feet in height and 10 feet in length.

18.41(2)(b) Real Estate Signs not to exceed 8 square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

18.41(2)(c) Home Occupation Signs: See Sec. 18.26(7)(b).

18.41(2)(d) Bulletin Boards for public charitable or religious institutions not to exceed 32 square feet in area located on the premises.

18.41(2)(e) Memorial Signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.

18.41(2)(f) Official Signs, such as traffic control, parking restriction, information and notices.

18.41(2)(g) Temporary Signs when authorized by the Building Inspector for the period of construction.

18.41(2)(h) No Such Sign mentioned above, except official signs (g) shall be located on public road right-of-way or in, on or over public water.

18.41(3) SIGNS PERMITTED. Signs are permitted for all commercial, business park and industrial uses subject to the following restrictions: (a) Wall Signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface, shall not exceed 200 square feet in area for any one premise.

18.41(3)(b) Projecting Signs fastened to, suspended from, or supported by structures shall not exceed 100 square feet in area for any one premise; shall not extend more than 6 feet into any required yard; shall not be less than 10 feet from all lot lines; shall not exceed a height of 20 feet above the mean centerline street grade; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.

18.41(3)(c) On-Premise Ground Signs are subject to the following restrictions: 1. Limited to one on-premise ground sign for each individual premise which advertises the business names, services offered, or products sold.

18.41(3)(c)2. On parcels having highway frontage on U.S.H. "41" of 300 feet or more, an additional on-premise ground sign will be permitted for each additional 200 feet of highway frontage on U.S.H. "41" in excess of the first 200 feet of U.S.H. "41" frontages, provided, when more than 1 on-premise ground sign is permitted, no on-premise ground sign shall be located closer than 200 feet from any other on-premise ground sign located on the same parcel.

18.41(3)(c)3. Such sign shall not exceed 20 feet in height.

18.41(3)(c)4. On parcels having frontage on East Avenue and or U.S.H. "41" not exceeding 1500 feet in distance from S.T.H. "67" on-premise ground sign(s) may be extended to 70 feet in height. (Ord. 250, 2004, revised)

18.41(3)(c)5. Such signs shall meet all yard requirements for the district in which it is located, or a 15 foot minimum set back, whichever is less.

18.41(3)(c)6. Such sign shall not exceed 100 square feet in display area on any one side, nor 200 square feet in display area on all sides for any one sign.

18.41(3)(c)7. On parcels having highway frontage on U.S.H. "41" on-premise ground signs located not more than 200 feet from the existing or proposed right-of-way of U.S.H. "41" shall not exceed 200 square feet in display area on any one side nor 400 square feet in display area on all sides for any 1 sign. (Ord. 250, 2004, revised)

18.41(3)(d) Off-Premise Ground Signs shall not be located within 50 feet of the existing or proposed right-of-way of any state or county trunk highway, or any town road measured horizontally along a line normal or perpendicular to the center of the highway; and shall not be located within 750 feet of any other off-premise ground sign, located on

the same side of the road shall not exceed 30 feet in height; and shall not exceed 300 square feet in display area on any one side nor 600 square feet in display area on all sides.

18.41(3)(e) Roof Signs shall not exceed 10 feet in height above the roof and it shall meet all the yard and height requirements for the district in which they are located and shall not exceed 300 square feet on all sides for any one premise.

18.41(3)(f) Directional Signs may be erected for the purpose of facilitating or controlling the efficient or safe movement of pedestrians or vehicles on private property. Such signs shall not be used for advertising purposes and particularly shall not include the name of any person, firm, company, organization or any product or service except as approved to designate directions to different businesses on the same site. Such signs shall be located on the property to which they pertain, shall not exceed an area of 6 square feet nor a height of 3 feet and shall be located at least 3 feet within the nearest property line. Such signs shall not be permitted on R-1, R-2 or R-3 Residential Districts.

18.41(4) TRAFFIC. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and, no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

18.41(5) ELECTRONIC MESSAGE SIGNS PERMITTED. (a) Electronic message signs are permitted and are defined as any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

18.41(5)(b) Electronic message sign cannot be more than 15% of the total square footage of display area allowed per side as stated in 18.41(3)(c)6.

18.41(5)(c) Electronic message signs cannot have more than three lines.

18.41(5)(d) Electronic message signs shall be permitted in Highway Commercial (C-2), Industrial (I) and Business Park (BP) zoning districts. (Ord. 249, 2004)

18.41(6) EXISTING SIGNS. Signs lawfully existing at the time of the adoption or amendment of this Chapter may be continued although the use, size, or location does not conform with the provisions of this section. However, it shall be deemed a non-conforming use or structure, and the provisions of §18.42, of this code shall apply.

18.41(7) PROTABLE SIGNS. No sign shall be erected which is not permanently affixed to a building, structure or the ground for more than seven days in any 30 day period except those giving public service information. (rn .fr. Zoning §§17.01 to 17.07)

NONCONFOMRING USES, STRUCTURES, AND LOTS

18.42 NONCONFORMING USES, STRUCTURES, AND LOTS. (1) EXISTING NONCONFORMING USES. The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this Chapter, may be continued, although the use does not conform with the provisions of this Chapter. However, only

that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

18.42(1)(a) Lifetime Structural Repairs or Alterations. Total lifetime structural repairs or alterations, shall not exceed 50 percent of the Village's assessed value of the structure at the time of it becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this section.

18.42(1)(b) Substitution of New Equipment. Substitution of new equipment may be permitted by the Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses. (rn. fr. Zoning §18.01)

18.42(2) ABOLISHMENT OR REPLACEMENT. (a) Discontinued or Terminated Nonconforming Uses. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this Chapter.

18.42(2)(b) Replacement Specified. When a nonconforming use or structure is damaged by fire, explosion, flood, public enemy or other calamity to the extent of more than 50 percent of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Chapter.

18.42(2)(c) Building Inspector to Maintain Record. A current file of all nonconforming uses shall be maintained by the Building Inspector listing the following: owner's name and address; use of the structure, land, or water, and the assessed value at the time of it becoming a nonconforming use. (rn .fr. Zoning §18.02)

18.42(3) EXISTING NONCONFORMING STRUCTURES. (a) The lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, setback, parking and loading, and access provisions of this Chapter.

18.42(3)(b) Additions and enlargements to existing nonconforming structures are permitted and shall conform with the required building setback lines along streets, water, and highways, and the yard, height, parking, loading and access provisions of this Chapter.

18.42(3)(c) Existing nonconforming structures may be moved or may be reconstructed if damaged or destroyed by fire, explosion, flood or other calamity; and shall conform with the required building setback lines along streets and highways, and the yard, height, parking, loading and access provisions of this Chapter.

18.42(3)(d) The provisions of this section with respect to additions or enlargements, reconstruction, and moving are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is serviced by public sanitary sewer. (rn. fr. Zoning §18.03)

18.42(4) CHANGES. Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. (rn fr. Zoning §18.04)

- 18.42(5) SUBSTANDARD LOTS. A lot which does not contain sufficient area to conform to the dimensional requirements of this Chapter may be used as a building site for a single family dwelling upon issuance of a building permit subject to the following conditions:
- 18.42(5)(a) Such use is permitted in the Zoning District.
- 18.42(5)(b) The lot is on record in the Dodge County Register of Deeds Office prior to the effective date of the Zoning Ordinances.
- 18.42(5)(c) The lot is in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the terms of this Chapter.
- 18.42(5)(d) All the dimensional requirements of this Chapter shall be complied with insofar as practical.
- 18.42(5)(e) The sanitary provisions of the County Sanitary Ordinance shall apply to those lots not served by public sewer. (rn. fr. Zoning §18.05)

BOARD OF ZONING APPEALS

- 18.45 BOARD OF APPEALS. (1) ESTABLISHMENT. There is hereby established a Board of Zoning Appeals for the Village of Lomira.
- 18.45(2) APPOINTMENT. The Board of Zoning Appeals shall consist of 5 members appointed by the Village President and confirmed by the Village Board.
- 18.45(3) TERMS AND VACANCIES. (a) Terms. Terms shall be for 3 years, except that of those first appointed, 1 shall serve 1 year, 2 for 2 years and 2 for 3 years.
- 18.45(3)(b) Vacancies. Vacancies shall be filled for the unexpired term in the same manner as appointment for a full term.
- 18.45(3)(c) Chairperson. The Chairperson shall be designated by the Village President.
- 18.45(3)(d) Alternate. An alternate member may be appointed by the Village President for a term of 3 years and shall act only when a regular member is absent or refuses to vote because of interest.
- 18.45(3)(e) Secretary. Secretary shall be as designated by the Village Board.
- 18.45(4) ORGANIZATION. The Board of Zoning Appeals shall organize and adopt rules of procedure in conformance to §§62.23(7)(e)1.-15., Wis. Stats. (rn. fr. Zoning §19.02)
- 18.45(5) POWERS. The Board of Zoning Appeals shall have the powers as expressed in §62.23(7)(e), Wis. Stats., except that conditional uses (special exceptions) shall be acted upon by the Plan Commission. Use variance shall not be granted. (rn. fr. Zoning §19.03)
- 18.45(6) APPEALS AND APPLICATIONS. Appeals from the decision of the Building Inspector concerning the literal enforcement of this Chapter may be made by any person aggrieved or by any officer, department, board, or bureau of the Village. Such appeals shall be filed with the Secretary within 30 days after the date of written notice of the decision or order

of the Building Inspector. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and application shall include the following:

18.45(6)(a) Name and Address. Name and address of the appellant or applicant and all abutting and opposite property owners of record.

18.45(6)(b) Information. All information required for a building permit.

18.45(6)(c) Additional Information. Additional information required by the Plan Commission, Board of Zoning Appeals or Building Inspector.

18.45(6)(d) Fee Receipt. Fee receipt in the amount \$15. (rn. fr. Zoning §19.04)

18.45(7) **HEARINGS.** The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least 10 days prior and shall give due notice to the parties in interest, the Building Inspector and the Plan Commission. At the hearing the appellant or applicant may appear in person, by agent or by attorney. (rn. fr. Zoning §19.05)

18.45(8) **FINDINGS.** No variance to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicate in the minutes of its proceedings.

18.45(8)(a) Exceptional Circumstances. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

18.45(8)(b) Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

18.45(8)(c) Absence of Detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Chapter or the public interest. (rn .fr. Zoning §19.06)

18.45(9) **DECISION.** The Board of Zoning Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector and Plan Commission.

18.45(9)(a) Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.

18.45(9)(b) Variances. Variances or permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant. (rn. fr. Zoning §19.07)

18.45(10) **REVIEW BY COURT OF RECORD.** Any person or persons aggrieved by any decision of the Board of Zoning Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such

petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Zoning Appeals. (rn. fr. Zoning §19.08)

CHANGES AND AMENDMENTS

- 18.46 CHANGES AND AMENDMENTS. (1) AUTHORITY. Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Village Plan Commission. (rn. fr. Zoning §20.01)
- 18.46(2) INITIATION. A change or amendment may be initiated by the Village Board, Village Plan Commission, or by a petition of one or more of the owners or lessees of property within the area proposed to be changed. (rn. fr. Zoning §20.02)
- 18.46(3) PETITIONS. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
- 18.46(3)(a) Plot Plan. Plot plan drawn to a scale of 1 inch equals 100 feet, or other scale approved by the Building Inspector, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing and use of all properties within 200 feet of the area proposed to be rezoned.
- 18.46(3)(b) Owners. Owners' name and addresses of all property lying within 200 feet of the area proposed to be rezoned.
- 18.46(3)(c) Additional Information. Additional information required by the Village Plan Commission or Village Board.
- 18.46(3)(d) Fee Receipt. Fee receipt in the amount of \$150. (rn .fr. Zoning §20.03)
- 18.46(4) RECOMMENDATIONS. The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied. (rn. fr. Zoning §20.04)
- 18.46(5) HEARINGS. The Village Board shall hold a public hearing upon each recommendation, giving at least ten (10) days prior notice of the time, place, and the changes or amendments proposed. The Village Board shall also give at least 10 days written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment. (rn. fr. Zoning §20.05)
- 18.46(6) ACTION. Following such hearing and after careful consideration of the Village Plan Commission recommendations, the Village Board shall vote on the passage of the proposed change or amendment. (rn. fr. Zoning §20.06)
- 18.46(7) PROTEST. In the event of a protest against such district change or amendment to the regulations of this Chapter, duly signed and acknowledged by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of

20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of $\frac{3}{4}$'s of the full Village Board membership. (m. fr. Zoning §20.07)

Chapter 19

FIRE PREVENTION CODE

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INTRODUCTION

- 19.01 **AUTHORITY.** This chapter is enacted by the Lomira Village Board under the authority granted by §60.55(1) and 60.555, Wis. Stats.
- 19.02 **PURPOSE AND INTENT.** This chapter is adopted to prescribe regulations consistent with recognized standard practices for the reasonable safeguarding of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from certain conditions determined to be hazardous to life and property in the use and occupancy of buildings or other premises.

GENERAL PROVISIONS

- 19.03 **STATE LAWS ADOPTED.** The Village of Lomira hereby adopts the following State Statutes as part of its Fire Prevention Code. Statutory provisions describing and defining regulations with respect to fire prevention in the following enumerated chapters and sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed and the punishment for the violation of said statutes are hereby adopted and by reference made a part hereof as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required and prohibited by this chapter. See Wis. Stats.,

19.03(a) 101.01 Definitions (words and Phrases Defined)

19.03(b) 101.14 Fire Inspections, Prevention, Detection and Suppression

19.03(c) 245.76(2) Causing Fires by Tobacco Smoking

- 19.04 CODES AND REGULATIONS ADOPTED. (1) STATE ADMINISTRATIVE CODES. The following chapters of the State of Wisconsin Administrative Code (Wis. Adm. Code), including any amendments and revisions thereto, are hereby adopted and by reference made a part of this chapter with the same force and effect as though set out in full: (a) General Orders on Fire Prevention, Ch. Comm 14;
- 19.04(1)(b) Cleaning and Dyeing Code, Ch. Comm 15;
- 19.04(1)(c) Application of Flammable Finishes, Ch. Comm 10; see NFPA Nos. 33, and 34 and s.1910.147 for the Occupational Safety and Health Administration standards-spray booths.
- 19.04(1)(d) Flammable and Combustible Liquids, Ch. Comm 10; NFPA 30;
- 19.04(1)(e) General Precautions Against Fire, Ch. Comm 14;
- 19.04(1)(f) General Requirements on Existing Buildings, Chs. Comm. 75 to 79;
- 19.04(1)(g) Explosives, Ammunition and Blasting, Ch. Comm 7
- 19.04(1)(h) Liquefied Petroleum Gases, Ch. Comm 11; NFPA Nos. 54, 58, 59 and 501 C;
- 19.04(1)(i) Electrical Code, Volume 2, Ch. Comm 16;
- 19.04(1)(j) Bowling Establishments, Ch. Comm 14.49, 14.50;
- 19.04(1)(k) Combustible Fibers, Ch. Comm 14.68 to 14.70;
- 19.04(1)(L) Lumber Yards, Ch. Comm 14.59 to 14.69;
- 19.04(2) CONFLICTS. Whenever any of the provisions of the codes enumerated in subs. (1) conflict, the strictest provision shall prevail.
- 19.04(3) VIOLATIONS. Any violation of any provision of the codes enumerated in subs. (1) shall be a violation of this Code.
- 19.05 KNOX BOX REQUIRED. (1) The following structures shall be equipped with a Knox Box installed on the address side of the building or such other location as approved by the Fire Chief:
- 19.05(1)(a) Commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency.
- 19.05(1)(b) Multifamily residential structures that have restricted access through locked doors and/or have a common corridor for access to the living unit.
- 19.05(1)(c) Governmental structures and nursing care facilities.
- 19.05(1)(d) All public and private educational facilities.

- 19.05(2) All newly constructed structures subject to the section shall have a Knox Box installed on the address side of the building unless authorized by the Fire Chief and be operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of this ordinance and subject to this section shall have one year from the effective date of this section to have a Knox Box installed and operational.
- 19.05(3) The owner or operator of a structure required to have a Knox Box shall, at all times, keep keys in the box that will allow access to the building. Additional keys may be required, as determined by the fire Chief. Examples might be locked mechanical rooms, elevator controls or rooms containing fire control systems.
- 19.05(4) Each key shall be legibly labeled to indicate the lock that it opens in such a manner as is approved by the Fire Chief.
- 19.05(5) The Fire Chief or his designee shall be authorized to implement rules and regulations for the use of the Knox Box system.
- 19.05(6) Knox Box Expectations: A Knox Box shall not be required for the following:
- 19.05(6)(a) Single family and two-family dwellings.
- 19.05(6)(b) Any building for which a staff person is required to be on site at all times, provided that such staff person possesses necessary keys, and the ability to access all areas of the building.
- 19.05(7) The Village of Lomira will designate a Knox Box system to be implemented within the Village and shall have authority to require such designated system on all required buildings.
- 19.05(8) Penalty: Any person who owns or operates a structure subject to this section shall be subject to penalties per fire inspection and for any violation of this Code, provided the minimum fine for the violation shall be \$700.
- 19.06 FIRE INSPECTIONS. (1) RIGHT OF ENTRY. The Fire Chief, the Chief of the Bureau of Fire Prevention and officers of the Village Fire Department or any inspector may at all reasonable hours enter any building or premises within their jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this chapter, any of them may deem necessary.
- 19.06(2) FREQUENCY. Fire inspections in the Village shall be scheduled and conducted in accordance with the provisions of §101.14(2), Wis. Stats.
- 19.06(3) ORDER TO REMOVE HAZARDS. Whenever any inspector shall find in any building or upon any premises combustible waste material or explosive matter which is so situated as to endanger property, or shall find obstructions to or on escapes, stairs, passageways, doors or windows liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he shall order the same to be removed or remedied.
- 19.06(4) ORDER TO INSTALL APPLIANCES. The Fire Chief or any other authorized Fire Inspector shall survey each mercantile and manufacturing establishment, each school, each place of assembly, each hospital or place of detention, each apartment house or tenement building, shall designate and order suitable fire appliances to be installed in or

near boiler rooms, kitchens of restaurants, clubs and like establishments, storage rooms involving combustible material, room in which hazardous manufacturing processes are involved, garage sections and other places of a generally hazardous nature. Such appliances may consist of automatic alarm systems, automatic sprinklers, standpipe and hose, fixed, wheeled or portable chemical extinguishers of a type suitable for the probably class of fire, or suitable asbestos blankets, manual or automatic hazardous processes or excessive storage, appliances of more than one type may be required, or special systems located and hung on hangers or set on brackets or shelves so that the top of the extinguisher is not more than five feet above the floor.

- 19.06(5) COMPLIANCE WITH ORDERS. Failure to comply with lawful orders or to install or provide the equipment ordered by the Chief of the Fire Department or by the Fire Inspector, and to maintain it in operative condition at all times, shall be a violation of this title.
- 19.06(6) SERVICE OF ORDERS. The service of orders under this section may be made upon the occupant of the premises to whom it is directed, whether by delivering a copy of same to such occupant personally, or by delivering the same to and leaving it with, any adult person in charge of the premises or put in a conspicuous place on the door to the entrance of the premises. Whenever it may be necessary to serve such an order upon the owner of the premises, such order may be served either by delivering to and leaving a copy with the said person or, if such owner is absent from the jurisdiction of the officer making the order, by mailing a copy to the owner's last known post office address; plus, publication in the Village newspaper for three consecutive weeks unless condition of building in Fire Department's discretion is so unsafe to allow for that passage of time.
- 19.06(7) APPEAL. Any such order shall forthwith be complied with by the owner or occupant of such premises or building. If such order is made by the, or one of the inspectors, such owner or occupant may, within 48 hours, appeal to the chief of the Fire Department who shall review such order and file his decision thereon. Unless by his authority the order is revoked or modified, it shall remain in full force and be complied with within the time fixed in the order or decision of the chief of the fire Department.
- 19.06(8) INVESTIGATING SUSPICIOUS FIRES. The Village attorney, and the police department, upon request of the Chief of the Fire Department, shall assist in the investigation of any fire, which, in his/her opinion is of suspicious origin.
- 19.07 POWERS OF VILLAGE FIRE CHIEF. The Chief of the Fire Department is hereby empowered to order compliance with the Wisconsin State Building Code, Village of Lomira Building Code, and Village of Lomira ordinances, and the Wisconsin Statutes, in matters pertaining to fire prevention and protection within the Village of Lomira.
- 19.08 AMERICAN INSURANCE FIRE PREVENTION CODE. (1) INSURANCE CODE. The storage, handling and use of flammable or explosive substances and the use or occupancy of buildings or premises, shall be in conformity with nationally recognized safe practices for the safeguarding to a reasonable degree of life and property from the hazards of fire or explosion. When such conformity is not defined in this chapter, compliance with the provisions of American Insurance Association Fire Prevention Code, 1970 Edition, and October, 1972, amendments and subsequent amendments thereto, to the list under Article 31, "Standards and Publications," shall be deemed to be prima facie evidence of compliance with such nationally recognized safe practice. The Village Fire Chief is hereby empowered to enforce such compliance.

- 19.08(2) **BUILDINGS AFFECTED.** The provisions of this section apply to all buildings, except:
(a) Private Residences. Private residences and accessory buildings in connection therewith.
- 19.08(2)(b) Two Family Residences. Buildings used as the residence of two families only, provided not more than two persons are accommodated who are not members of the family.
- 19.08(2)(c) Temporary Buildings. Temporary buildings or sheds used for construction purposes only, provided however, that if any building or structure whether above exempted or not, is especially liable to fire and is so situated as to endanger other buildings or property, or contains any combustible or explosive material dangerous to the safety of any building or premises, or to the occupants thereof, or endangering or hindering firefights in case of fires, then such building or structure shall be subject to these orders so far as may be necessary to protect adjoining or other buildings and their occupants and firemen.
- 19.09 **EXIT WAYS.** (1) **OBSTRUCTIONS TO MEANS OF EXIT.** (a) No person shall place an encumbrance of any kind before or upon any fire escape, balcony or ladder intended as a means of escape from fire.
- 19.09(1)(b) No person shall place, store or keep, or permit to be placed stored or kept on or under or at the bottom of any exit stairway, inside or outside, exit hallway, fire escape, elevator or other means of egress, any materials the presence or the burning of which would obstruct or render hazardous egress of persons from the building.
- 19.09(1)(c) No aisle, passageway or stairway in any store shall be obstructed with tables, show cases, or other obstruction. Aisle space must be maintained at a 40" minimum.
- 19.09(2) **MARKING EXIT WAYS.** (a) Every exit doorway from each floor, other than the principle entrance on the first floor shall be indicated by an approved illuminated sign over the door bearing the word "EXIT" or "OUT" in plain letters not less than 5" in height. "EXIT" lights must be on at all times that the building is occupied.
- 19.09(2)(b) Where the exit doorways are not visible from all locations in public corridors illuminated directional signs as required by the Bureau of Fire Prevention, shall be placed on walls or otherwise displayed in conspicuous locations to direct occupants to exit doorways.
- 19.09(3) **LIGHTING EXIT WAYS.** Required stairways, hallways and other means of egress, including exterior open spaces to or through which exit ways lead, shall be kept adequately lighted at all times that the building served thereby is occupied.
- 19.09(4) **DOORS TO BE KEPT CLOSED.** It shall be unlawful to block open any stairway, hall, corridor, or enclosure door which by law is required to be self-closing.
- 19.09(5) **CLEAR PATHWAYS.** The owner, agent or occupant of any business building, manufacturing building, or any building used for any purpose of storage, excepting elevators used for the purpose of storage of grain shall be kept clear of all obstructions and encumbrances from the floor to ceiling. There shall be maintained one clear and unobstructed pathway on each floor, including the basement floor, at least 3 feet wide, and running from the front to the rear of such building. There shall also be pathways 2 feet wide outside along the front and rear of such buildings as the Village Fire Chief may

deem necessary, with not less than one-2 feet wide pathways connection with the fire escape exits or other exists and stairways.

- 19.10 STORAGE OF GUNPOWDER AND EXPLOSIVES. (1) GUNPOWDER. No person shall keep or store in any store, dwelling house or other building gunpowder in any quantity exceeding 50 pounds nor in any quantity whatever unless the same shall be kept in metallic vessels. See Wis. Adm. Code Ch. Comm 7.
- 19.10(2) EXPLOSIVES. No person shall keep or store any quantity of nitroglycerine, dynamite, dynamite caps, gunpowder or other violent explosives within any building within the Village without the express written permission of the Village Fire Chief.
- 19.11 FLAMMABLE LIQUIDS, ON STREETS AND IN VEHICLES. (1) PLACING ON STREET. No crude petroleum, kerosene, gasoline, naphtha, benzine, carbon oil, camphene, spirit gas or burning fluid shall be kept or stored in front of any building or on any street, alley, sidewalk, wharf, or lot for a longer period time than is sufficient to receive in store or to deliver the same.
- 19.11(2) PARKING ON STREETS. No tank vehicle shall be left unattended on any street or alley. This shall not prohibit a driver from the necessary absence from a tank vehicle in connection with the delivery of the load, except that during actual discharge of the liquid some responsible person shall be present at the vehicle. This subs. shall not be construed to prohibit stops for meals during the day or night provided the street is well lighted at point of parking.
- 19.11(3) PARKING TIME LIMIT. Tank vehicles containing flammable liquids shall not be parked out-of-doors at any point for longer than one hour, except off the street and at least 25 feet from any building used for assembly, institutional or residential occupancy.
- 19.11(4) PARKING IN BUILDINGS. Tank vehicles shall not be parked or garaged in any buildings other than those specifically approved for such use by the Chief of the Bureau.

STORING AND HANDLING OF FLAMMABLE LIQUIDS

- 19.12 BULK-OIL STATIONS AND BULK STORAGE. (1) REGUALTIONS. The following Flammable And Combustible Liquids regulations of the Wisconsin Administrative Code, are hereby adopted as a part of this chapter. (a) Bulk Plants And Terminals, Wis. Adm. Code Ch. Comm 10.37 to 10.39;
- 19.12(1)(b) Farms, Construction Projects, Ch. Comm 10.43 to 10.46;
- 19.12(1)(c) Liquefied Petroleum Gas, Ch. Comm 11 and ATCP 92.05;
- 19.12(1)(d) Oil Burning, Ch. Comm 10.47;
- 19.12(1)(e) Service Stations, Ch. Comm 10.395 to 10.42; see NFPA No.30A;
- 19.12(1)(f) Standards, Technical Incorporated by Reference, Ch. Comm 10.25 to 10.27;
- 19.12(1)(g) Tank Storage, Ch. Comm 10.34 to 10.36;

- 19.12(2) VIOLATION AND APPLICATION. The violation of any of the provisions of the regulations and codes enumerated in subs. (1) shall constitute a violation of this chapter. The provisions of the aforesaid code and of this chapter shall govern the storing and handling or using of flammable liquids in the Village of Lomira. It is the intention of the Village board in adopting these regulations that in the event of conflict between the above referred to Industrial Commission rules and this code, the more stringent regulations shall apply.
- 19.13 CLASSIFICATION OF FLAMMABLE LIQUIDS. For the purpose of this chapter, flammable liquids are divided into three classes according to the flash point as follows:
- 19.13(1) CLASS I. Liquids with flash point at or below 100°F closed cup tester.
- 19.13(2) CLASS II. Liquids with flash above that for Class I and at or below 140°F closed cup tester.
- 19.13(3) CLASS III. Liquids with flash point above that for Class II and at or below 200°F closed cup tester.
- 19.13(4) STATE CODE APPLIED. The flash point shall be determined as prescribed in the applicable flammable liquids regulations Wisconsin Administrative Code.

Note: Representative Examples of the Classes of Flammable Liquids:

<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Amyl Acetate	Acrylic Acid	Amyl Toluene
Benzol	Camphor Oil	Creosote Oil
Carbon Bisulfide	Diesel Oil	Phenol
Collodion	Fuel Oil	Pine Oil
Esther	Kerosene	Quenching Oil
Gasoline	Stoddard Solvent	

Naphtha (Some naphtha fall in Class II and Class III)

- 19.14 MANUFACTURED LIQUID COMPOUNDS AND COMMODITIES. Any manufactured liquid or fluid commodity, such as paint, varnish dryer, cleaning solution, and polishing liquid which contains flammable liquids shall be considered a flammable liquid and shall be classed according to the flash point of the mixture.
- 19.15 BULK STORAGE REQUIREMENTS. (1) PERMIT REQUIRED. No person shall erect, establish or maintain a bulk station or bulk storage for the storing and handling of flammable liquids for commercial or private use in the Village of Lomira without first obtaining a permit from the Fire Chief.
- 19.15(2) BULK STORAGE DEFINED. As used in this section, the term “bulk storage” means the storing and handling of flammable liquids stored, or capable of being stored on any premises in excess of the following quantities: (a) 25 gallons of Class I liquids; (b) 55 gallons of Class II liquids; and, (c) 1,000 gallons of Class III liquids. Unless storage of

quantities in excess of those given above is to be maintained for 30 days or more, nothing contained in this chapter shall require the owner or occupant or his agent to obtain a permit for the use by him of paints, oil, varnishes or similar flammable mixtures.

- 19.15(3) APPLICATION FOR BULK STORAGE PERMIT. (a) State Application. Application for bulk storage permit shall be made to the Department of Industry, Labor and Human Relations on the form(s) as shall be required.
- 19.15(4) GRANTING OF BULK STORAGE PERMIT. The permit herein required shall be granted only if the tanks, structures and equipment and installation thereof are safe and comply with the provisions of this chapter and only if the erection or maintenance of the bulk station or storage is so located that it will not cause an undue fire hazard in view of the character of surrounding property and of the surrounding topography.
- 19.16 BULK STATIONS AND BULK STORAGE INSTALLATIONS. All bulk stations and bulk storage installations and equipment shall comply with applicable sections of Wis. Adm. Code; Chs. Comm 10 (Flammable and Combustible Liquids Code), Comm 11, 12 and Ch. Comm 23.16 except, insofar as the regulations and requirements of this chapter are additional to and stricter than, the provisions of said Codes.
- 19.17 DIKES. (1) REQUIRED. Each tank containing crude oil or other liquids which have a tendency to boil over, and each individual tank exceeding 50,000 gallons in capacity; also all individual tanks and group oil tanks with individual tank capacity of less than 50,000 gallons installed on the bank of a river or other body of water, or on sloping ground exposing property below, shall be adequately diked or surrounded by retaining wall. When deemed necessary by the State of Wisconsin or the Village Fire Chief on account of topography or nearness to buildings or property of high value, other individual tanks or group of tanks may be required to be adequately and properly diked or surrounded with a curb or with retaining walls to prevent the discharge of flammable liquids onto other property.
- 19.17(2) CONSTRUCTION MATERIAL. Dikes or retaining walls required shall be of earth or masonry so constructed as to afford adequate protection.
- 19.20 LOCATION OF BULK STATIONS. No commercial bulk oil station shall be erected, constructed, established, used or maintained in any residential district or within 500 feet of any building used for theater, church, public or parochial school purpose, provided that this provision shall not apply to bulk stations now existing and in use. The 500 foot distance shall not apply to gasoline tanks in connection with gasoline filling stations; nor gasoline tanks of 1,000 gallons capacity or less and fuel oil tanks of 5,000 gallons or less when such tanks are underground and used only for private purposes. All bulk stations and bulk storage shall be maintained in such condition as to be safe and causing no undue fire hazard.
- 19.21 USE AND INSPECTION. No bulk station or bulk storage shall be used for the storage or dispensing of flammable liquids unless the premises for such installation meets with the requirements of this chapter and are approved by the Village Fire Chief. Inspections of all bulk stations and bulk storage shall be made by or under the direction of the Village Fire Chief at least once every three months or as frequently as the Fire Chief shall deem necessary.

- 19.22 PERMIT(S) FOR STORING AND HANDLING OF FLAMMABLE LIQUIDS. A permit shall be obtained from the Village Fire Chief or Chief of the Bureau of the storing and handling of flammable liquids as follows: (1) CLASSIFICATIONS. (a) Class I. For the storage or handling of a total quantity of more than 1 gallon of Class I liquids in any dwelling, apartment house or tenement, and in excess of 5 gallons in any other building, and in excess of 10 gallons outside of any building.
- 19.22(1)(b) Class II. For the storage or handling of a total quantity of Class II liquids in excess of 5 gallons in any dwelling, apartment house or tenement, and in excess of 10 gallons in any other building, and in excess of 25 gallons outside of any building.
- 19.22(1)(c) Class III. For the storage or handling of a total quantity of Class III liquids in excess of 55 gallons, except that for the installation of tanks with a storage capacity of 1,000 gallons or less for the storage of Class III fuel oil in one or two family residences, such permits shall be obtained from the building inspector.
- 19.22(2) APPLICATION FOR PERMIT. All applications for permits to handle, sell, or store flammable liquids, shall be made in writing to the Village Fire Chief or Chief of the Bureau. If in the opinion of the Village Fire Chief or Chief of the Bureau, the conditions surrounding the arrangement for the storing and handling of flammable liquids are such that the Comm flammable liquids codes and regulations and this chapter can be observed, the Village Fire Chief shall issue a permit. Such permit shall not be transferable.
- 19.23 TANK REGULATIONS. (1) PURPOSE AND INTENT. It is the intent of this section to proscribe regulations for the safe and effective utilization, maintenance and abandonment of above ground and underground tanks for the storage, handling or use of flammable and combustible liquids, and to the property and facilities where the tanks are located.
- 19.23(2) LOCAL REGULATIONS. (a) Above Ground Gasoline Tanks. Above ground gasoline tanks are hereby illegal in accordance with State law, rules and regulations.
- 19.23(2)(b) Underground Tanks Not in Service. State and Federal Regulations shall apply.
- 19.23(3) COMPLIANCE WITH STATE REGULATIONS. The construction, maintenance, and abandonment standards promulgated by the Wisconsin Department of Commerce applicable to tanks for the storage, handling or use of flammable and combustible liquids, and to the property and facilities where the tanks are located, for the purposes of protecting the waters of the state from harm due to contamination by flammable and combustible liquids and as are authorized under §101.09(3) and Ch. 160, Wis. Stats., shall be complied with and same are adopted and by reference are made a part of this chapter with the same force and effect as though set out in full herein.

HAZARDOUS SUBSTANCES AND CHEMICALS

- 19.25 TITLE AND SCOPE. This section shall be known as the “The Village of Lomira Hazardous Substances and Chemicals Regulations” and shall apply to materials not otherwise covered in this chapter which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of their toxicity, flammability, or liability to explosion render fire fighting abnormally dangerous or difficult. This section shall also apply to flammable liquids which are chemically unstable and which may spontaneously form an explosive compound or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a

fire hazard. Hazardous chemicals as referred to hereunder shall include such materials as: compressed gases, flammable solids, corrosive liquids, radioactive materials, oxidizing materials, potentially explosive chemicals, highly toxic materials, potentially explosive chemicals and poisonous gases.

- 19.26 DEFINITIONS. Terms used in this section shall have the following meanings: (1)
COMPRESSED GAS. Compressed gas means any mixture or material having in the container either an absolute pressure exceeding 40 pounds per square inch at 70°F, or any liquid flammable material having a Reid vapor pressure, exceeding 40 pounds per square inch at 100°F.
- 19.26(2) DIP TANK. A dip tank means a tank, vat, or container of flammable or combustible liquid in which articles or materials are immersed for the purpose of coating, finishing, treating or similar processes.
- 19.26(3) DRY CLEANING. Dry cleaning means the process of removing dirt, grease, paints and other stains from wearing apparel, textiles, fabrics, rugs, etc., by the use of nonaqueous liquid solvents.
- 19.26(4) DRY DYEING. Dry dyeing means the process of dyeing clothes or other fabrics or textiles in a solution of dye colors and flammable liquids.
- 19.26(5) VAPOR PRESSURE. Vapor pressure means the pressure, measured in pounds per square inch (absolute) exerted by a volatile liquid as determined by nationally recognized good practice known as the Reid method.
- 19.26(6) CORROSIVE LIQUIDS. Corrosive liquids means those acids, alkaline caustic liquids, and other corrosive liquids which, when in contact with living tissue, will cause severe damage of such tissue by chemical action; or are liable to cause fire when in contact with organic matter or with certain chemicals.
- 19.26(7) OXIDIZING MATERIALS. Oxidizing materials means substances such as chlorates, permanganate, peroxides, or nitrates, that yield oxygen readily to stimulate combustion.
- 19.26(8) RADIO ACTIVE MATERIAL. Radio active material means any material or combination of materials that spontaneously emit ionizing radiation.
- 19.26(9) FLAMMABLE SOLID. Flammable solid means a solid substance, other than one classified as an explosive, which is liable to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from manufacturing or processing.
- 19.26(10) POTENTIALLY EXPLOSIVE CHEMICAL. Potentially explosive chemical means any chemical substance, other than one classified as an explosive, which can be exploded by heat or shock when it is unconfined and unmixed with air or other materials.
- 19.26(11) HIGHLY TOXIC MATERIALS. Highly Toxic materials means materials so toxic to humans as to afford an unusual hazard to life and health during fire fighting operations. Examples are parathion, malathion, TEPP (tetraethyl phosphate), HETP (hexaethyl tetraphosphate), and similar insecticides and pesticides.

- 19.26(12) POISONOUS GAS. Poisonous gas means any noxious gas of such nature that a small amount of the gas when mixed with air is dangerous to life. Examples are chloropicrin, cyanogen, hydrogen cyanide, nitrogen peroxide, and phosgene.
- 19.27 PERMIT(S) REQUIRED. (1) CHEMICALS, TOXIC MATERIALS AND POISONOUS GASES. A permit from the Fire Chief or from Chief of the Bureau is required for the storage or handling of more than 55 gallons of corrosive liquid; or more than 500 pounds of oxidizing materials, or more than 500 millicurie of radioactive material; or more than 2,000 cubic feet of flammable compressed gas; or 10 pounds or more of organic peroxides; or 500 pounds or more of ammonium nitrate; or any amount of highly toxic material or poisonous gas.
- 19.27(2) DRY CLEANING PLANTS. (a) Before any dry cleaning plant may be established, application for permission therefor shall be filled with, and approved by, the appropriate state and local agencies and authorities.
- 19.27(2)(b) Every dry cleaning plant shall have posted in a conspicuous place, a permit issued by the Wisconsin Department of Commerce. Permits shall remain in force until revoked for cause but shall not be transferable. Application for such permit shall be made on the standard form as required by the appropriate state agency.
- 19.27(2)(c) The establishment of and operation of dry cleaning plants in the Village of Lomira shall comply with the State Cleaning and Dyeing Code, Wis. Adm. Code, Ch. Comm 15, which is hereby adopted as a part of this chapter. See §19.04 this code.
- 19.27(3) BOWLING PIN REFINISHING AND ALLEY RESURFACING. A permit from the Fire Chief or Chief of the Bureau is required for bowling pin refinishing and for bowling alley resurfacing operations involving the use and application of flammable liquids or materials. The Fire Prevention Bureau shall be notified when alleys are to be resurfaced.
- 19.28 GENERAL REQUIREMENTS. (1) SEPARATION ORDERS. The Fire Chief or Chief of the Bureau may require the separation, or isolation of any chemical that in combination with other substances may bring about a fire or explosion or may liberate a flammable or poisonous gas. The Fire Chief or Chief of the Bureau may require separation from other storage occupancies or buildings when the quantity stored constitutes a material hazard.
- 19.28(2) DEFECTIVE CONTAINERS. Defective containers which permit leakage or spillage shall be disposed of or repaired, in accordance with recognized safe practices; no spilled materials shall be allowed to accumulate on floors or shelves.
- 19.28(3) RETAIL SALES. Where kept for retail sales in containers or packages, usual to the retail trade, storage shall be neat and orderly and shelves shall be of substantial construction.
- 19.28(4) GOOD JUDGEMENT. Where specific requirements are not otherwise established, the storage, handling and use of hazardous chemicals shall be in good practice.
- 19.28(5) APARTMENTS/MULTIPLE DWELLINGS. Items listed below are not permitted to be stored in basements or storage bins of apartments or other multiple dwellings:
- 19.28(5)(a) Charcoal, except in a metal container with metal cover;
- 19.28(5)(b) Oily rags or dust mops;

19.28(5)(c) Flammable liquids of any nature other than motor oils or similar oils in metal quart containers;

19.28(5)(d) Bottle gases, propane, acetylene, oxygen, etc.;

19.28(5)(e) Ammunitions, acids, corrosives or similar items of a hazardous nature. (calcium hypochlorite, gun powder, nitrates, etc.);

19.28(5)(f) Gasoline motors and gasoline powered equipment such as outboards motors, power lawn equipment, snow blowers, snow plows, motor bikes, motorcycles, etc.

19.28(6) SPECIAL PERMISSION. Special permission may be granted for storage of gasoline powered equipment if the following conditions are met: (a) Remove spark plug(s);

19.28(6)(b) Disconnect battery;

19.28(6)(c) Completely drain fuel tank; and

19.28(6)(d) Cover spark plug(s) opening and seal tank fill opening effectively with tape.

19.28(7) COMPRESSED GASES. (a) Storage rooms for compressed gases shall be cool, dry and well ventilated.

19.28(7)(b) Cylinders shall be stored away from radiators and other sources of heat. No part of any cylinder containing compressed gas shall be subject to temperatures of above 125°F.

19.28(7)(c) Where caps are provided for valve protection, they shall be kept on all cylinders not connected to gas utilization equipment. When not in use, cylinders shall be chained in an upright position. A separation of at least 30 feet must be maintained between cylinders containing oxygen and any containing flammable gas.

19.28(7)(d) Refilling of cylinders shall be done only in compliance with Interstate Commerce Commission Regulations.

19.28(7)(e) Each cylinder shall carry a legible label or stencil identifying its contents.

19.28(8) OXIDIZING MATERIALS. Oxidizing materials shall be stored in dry locations and separated from organic materials including wooden surfaces.

19.28(9) POTENTIALLY EXPLOSIVE CHEMICALS. Potentially explosive chemicals shall be protected from external heat, fire, and explosion. Good house keeping shall be maintained. All spilled materials shall be promptly gathered and destroyed in an approved manner. Smoking shall be prohibited in the storage area.

19.28(10) POISONOUS GASES. (a) Storage of poisonous gases shall be in rooms of at least one hour fire-resistant construction and having natural or mechanical ventilation adequate to remove leaking gas. Such ventilation shall not discharge to a point where the gases may endanger any person.

19.28(10)(b) Legible "warning signs" stating the nature of hazards shall be placed at all entrances to locations where poisonous gases are stored or used.

19.28(11) CORROSIVE LIQUIDS. Satisfactory provisions shall be made for containing and neutralizing or safely flushing away leakage of corrosive liquids which may occur during storage or handling.

19.28(12) FLAMMABLE FINISHES. (a) Spray Finishing. This paragraph applies to the locations or areas where the application of flammable or combustible paint, varnish, lacquer, stain or other flammable or combustible liquid is regularly applied as a spray in continuous or intermittent processes. 1. Smoking shall be prohibited in any spray finishing areas and "NO SMOKING" signs with lettering of approved size shall be conspicuously posted in such areas and shall read "BY ORDER OF THE FIRE CHIEF".

19.28(12)(a)2. "NO WELDING OR CUTTING-THE USE OF WELDING OR CUTTING EQUIPMENT IN OR NEAR THIS AREA IS DANGEROUS BECAUSE OF FIRE AND EXPLOSION" signs with lettering of approved size shall be conspicuously posted in the vicinity of all spraying areas, and paint storage rooms.

19.28(12)(a)3. Spray finishing applications shall comply with applicable Federal, State and local codes and the regulations on Spray Coating.

19.28(12)(b) Pin Refinishing. Pin refinishing involving the application of flammable finishes shall be done in a manner so as to meet all applicable Federal, State and local codes and regulations and only in a special room meeting the requirements of the applicable codes and regulations of the State. Such room shall not be located below grade nor shall it have connection with any pits, wells, pockets, or basements.

19.28(12)(b)1. Storage of flammable liquids in such rooms shall not exceed a combined aggregate of 60 gallons in original containers, or in approved safety containers not exceeding 5 gallons in individual capacity.

19.28(12)(b)2. A metal waste can with a self-closing cover shall be provided for all waste materials and rags; and, the contents shall be safely removed daily. Smoking shall be prohibited at all times in refinishing rooms.

19.28(12)(c) Alley Resurfacing Operations. 1. Resurfacing operations shall not be carried on while the establishment is open for business.

19.28(12)(c)2. Proper ventilation shall be provided.

19.28(12)(c)3. Heating, ventilating or cooling systems employing recirculation of air shall not be operated during resurfacing operations, or within one hour following the applications of flammable finishes. All electric motors or other equipment in the area which might be a source of ignition shall be shut down, and all smoking and use of open flames is prohibited during the application of flammable finishes and for one hour thereafter.

19.28(12)(d) Installation and Operation of Dip Tanks. The installation and operation of dip tanks in the Village shall be in conformity with nationally recognized safe practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire explosion.

19.28(12)(e) Fumigation. 1. Notification. All persons engaged in the business of extermination shall notify the Fire Inspector of the Fire Department in writing at least 24 hours before any building or structure is to be closed in connection with the use of any toxic or flammable fumigant.

19.28(12)(e)2. Protective Breathing Apparatus. All persons engaged in the business of fumigation or thermal insecticidal fogging shall maintain and have available approved protective breathing apparatus.

19.28(12)(e)3. Fires, Open Flames. All fires, open flames and similar sources of ignition shall be eliminated from the space under fumigation or thermal insecticidal fogging. Heating, if needed, shall be by steam or hot water.

19.28(12)(e)4. Posting. During the period fumigation is in progress, except when fumigation is conducted in a gas-tight vault or tank, the building being fumigated shall be posted and shall remain posted until after the fumigation is completed and the premises are properly ventilated, and again safe for human occupancy. "Posted" means that the building being fumigated shall be posted with red signs with legible black lettering 2 inches high with words "Warning-Fumigating". Such signs shall be posted in a conspicuous location on the front and rear of the building.

LIQUEFIED PETROLEUM GASES

- 19.30 TITLE AND SCOPE. This section shall be known and cited as "The Village of Lomira Liquefied Petroleum Regulations" and shall apply to all storage and handling of liquefied petroleum gas and the installation of all equipment pertinent to systems for such uses.
- 19.31 DEFINITIONS. For the purpose of this section the following terms and words are defined as follows:
- 19.31(1) LIQUEFIED PETROLEUM GAS. Liquefied petroleum gas means any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them: propane, propylene, butane, (normal butane or iso-butane) and butylene.
- 19.31(2) LIQUEFIED PETROLEUM GAS EQUIPMENT. Liquefied petroleum gas equipment means any containers, apparatus, piping (not including utility distribution piping systems), and equipment pertinent to the storage and handling of liquefied petroleum gas. Gas consuming appliances shall not be considered as being liquefied petroleum gas equipment.
- 19.32 PERMITS AND REPORTS OF INSTALLATIONS. Persons storing, retailing, handling or using tanks of liquefied petroleum gases shall obtain approval from the Village Fire Chief. A written statement shall be issued by every person making an installation, showing that the design, construction and location are in compliance with these standards as stated in Section 101.105(4), Wisconsin Statutes.
- 19.33 STORAGE AND USE REGULATIONS. The storing and handling or using of liquefied petroleum gases in the Village of Lomira shall comply with applicable federal, state and local laws, rules and regulations which are hereby adopted and by reference made a part of this Chapter.

SALES OF CHRISTMAS TREES

- 19.35 PERMITS AND APPROVALS. (1) WRITTEN PERMISSION REQUIRED. No person shall operate any place in the Village for the purpose of storing, selling or displaying for sale Christmas trees, until such a person shall first have applied for written permission from the Fire Chief to conduct such business.
- 19.35(2) APPROVAL OF PREMISES. All premises shall be inspected and approved by the Bureau of Fire Prevention before a permit is granted. If premises are to be used for flocking operations, applicant must so state in his application for permit.
- 19.36 DEFINITIONS. Terms used in this section have the following meanings: (1) CHRISTMAS TREES: Those trees of the varieties and kinds used for decorative purposes, usually during the Christmas season, and which have been cut and are no longer attached to the soil.
- 19.36(2) PUBLIC STREET: That property set aside for street purposes or street right of ways, including sidewalks, curbs, shoulders, parking strips and alleys.
- 19.37 GENERAL REQUIREMENTS. (1) No Christmas tree shall be displayed, stored or sold on any public street and all Christmas trees shall be stored and displayed in such manner that they will not fall upon the public sidewalk or street.
- 19.37(2) No Christmas trees shall be stored or displayed inside of any building or within 15 feet of any building, gasoline pump or motor vehicle, unless otherwise noted herein.
- 19.37(3) All outside electric wiring used on said premises or location shall be installed to conform, with Order NO. 13-7321 of the Wisconsin State Electrical Code. When portable electric cords are used, they shall be hard service cords as specified in Table 31 of the Wisconsin State Electrical Code.
- 19.37(4) By midnight of January 10 following the date of issue of the permit, all trimmings, cuttings, trees and debris shall be removed from the premises and disposed of in a lawful manner. Failure to comply with this provision shall be adequate reason to deny further permit of the property for the purpose of Christmas tree sales.
- 19.37(5) All Premises used for Christmas tree sales shall be maintained in such manner as to eliminate insofar as possible any fire hazard.
- 19.37(6) No trees which have become dried out shall be kept on the premises.
- 19.37(7) Christmas trees and decorations may be flocked in a room or building separated from other occupancies so as not to create a fire or life hazard. Open flames and heating plants shall be separated from the areas where flocking operations are performed. Areas where flocking operations are performed shall be designated by the Fire Chief or Chief of the Bureau.
- 19.37(8) The use of wool or cotton flock, or adhesives that are not flame-retardant is prohibited. Materials used for flocking shall be approved by the Fire Chief.
- 19.37(9) Each tree or decoration that is flocked with flame-retarding adhesive shall have a tag affixed to it which shall bear the following:

19.37(9)(a) Name of applicator.

19.37(9)(b) Date of the application of the chemical.

19.37(9)(c) Kind of chemical used (trade name and symbol).

- 19.37(10) Christmas trees that have been flame-retarded in a manner approved by the Bureau of Fire Prevention may be stored in a building used only for such storage, and not adjoining any other structure. Only Christmas trees treated or in the process of being treated may be stored in a safe manner. The number of Christmas trees which may be stored in a building shall be determined by the Fire Chief after an inspection of the premises.

SMOKING REGULATIONS

- 19.40 SMOKING DEFINED. Smoking as used in this chapter includes the carrying of lighted pipe, cigar, cigarette or tobacco in any form. (1) In all Village owned buildings, State Statute Sec. 101.123 shall prohibit smoking. The Village Board, shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted. A sign must be posted to designate the area as a "Smoking Area".
- 19.40(2) It is unlawful for any person to remove any legally required "NO SMOKING" sign or to smoke in any place where such signs are posted.
- 19.40(3) Smoking Allowed. The Lomira Village Board designates the Lomira Fire Department area in the Lomira Municipal Building as a smoking permitted area. A sign must be posted to designate the area as "Smoking Permitted".
- 19.41 THEATERS REGULATED. (1) It is unlawful to light a match or other flame producing device or to smoke or carry a lighted cigar, cigarette or pipe in any theater or motion picture theater except in areas approved by the Village Fire Chief provided such areas are free from all flammable and combustible floors, walls, furniture, fixtures and decorations.
- 19.41(2) It shall be the duty of the operator of such theater or motion picture theater before the beginning of each performance to announce from the stage or by projection on the screen that smoking is prohibited by local ordinance except in approved areas.
- 19.41(3) It shall be the duty of the movie operator to erect approved signs as directed by the Village Fire Chief, stating that smoking is prohibited by ordinance except in institutions, places of assembly, and in open spaces where combustible materials are stored or handled, the Fire Chief may order the owner or occupant in writing to post "NO SMOKING" signs in each building, structure, room or place in which smoking shall be prohibited.

OPEN FIRES AND OPEN FLAMES

- 19.45 REGULATION OF OPEN FIRES. (1) LOCATION, TYPE. Burning is not allowed in the Village of Lomira with the following exceptions:
- 19.45(1)(a) The Fire Chief may allow a fire for the live training of the fire department firefighters.

19.45(1)(b) Open campfires are permitted for the purpose of cooking. Fires shall be confined to the burning of only wood or charcoal which do not emit dense smoke or objectionable odors. Burning garbage or refuse of any kind is prohibited. The material to be burned cannot exceed two feet in height or 30 inches in diameter. No person shall kindle or start an open fire within 40 feet of any building or structure, pile of lumber, wood or wooden fence. If less than 40 feet, the fire shall be contained in a round fire pit at least 12 inches deep at the center and no larger than 30 inches in diameter at ground level. A metal cover must be available to help extinguish the fire and to cover the pit when not in use. A fire shall be under competent supervision at all times to prevent fire from endangering surrounding property. (See also Ch. NR 30-Forest Fire Control Department of Natural Resources).

- 19..45(2) OUTSIDE FIREPLACES AND COOKING APPLIANCES. Permanent fireplaces shall be located and constructed in a manner approved by the Fire Chief, Chief of the Bureau or inspectors of the Fire Department. Portable braziers, grilles, and similar appliances used for the preparation of food may be used in any location which is not hazardous to life or property. No permanent fireplace and no portable brazier, grill or similar appliance shall be used for any purpose other than the preparation of food.
- 19.45(3) WASTE MATERIAL. No owner, agent or occupant of any building in the Village shall allow any waste paper, except waste papers and magazines save for recycling, rags or other waste material of combustible nature to remain in any building or on any premises more than 24 hours, unless kept in a fireproof vault, or covered, fire-resistive metal-lined bin. This subsection shall not apply to dealers in wastepaper, rags, other waste material, while conducting their business, but such dealers shall comply with other requirements of this chapter and applicable Village and State Codes. The Fire Chief, Chief of the Bureau or inspectors shall order the immediate removal of such combustible waste material from any building or premises where, in his opinion such storage would create a fire hazard. Ashes, when kept in basements in buildings under this subsection, shall be placed in fireproof bins, areas, or containers.
- 19.45(4) PACKING MATERIAL. The owner, agent or occupant of a building in which shavings, sawdust, chips, excelsior, straw or similar light combustible material is used for packing, shipping or manufacturing purposes, or loose paper, shall provide a fireproof vault or covered fire-resistant bin of sufficient capacity to contain all such material. The door or vault or covered bin shall be kept closed except when removing or depositing material. The door or vault or covered bin shall be kept closed except when removing or depositing material. Only such amounts of packing material as may be necessary for immediate use shall be kept outside of the fireproof vault or bins. As the close of each day's work, all remaining packing material shall be returned to the vault or bin.
- 19.45(5) HAY, STRAW AND SHAVINGS. It shall be unlawful for any person to have put, or keep any hay or straw, loose or in bales, uncovered within 150 feet of any building, except when used for mulch or covering on a flowerbed or garden or put or keep or allow to be kept any hay, straw, hemp, flax, tow, shavings, or any other combustible material of like nature in any building within such distance from any chimney, fireplace, or place for depositing of ashes as may be deemed unsafe or dangerous by the Village Fire Chief.
- 19.45(6) EMISSION OF SPARKS. Any chimney or smokestack attached to the equipment used for heating, power, or burning of refuse in any apartment building, business building, manufacturing building, or any public building, which equipment used in whole or in part any fuel that causes the emission sparks or burning embers from such chimneys or

smokestacks, shall, be provided with a spark arrestor or any other device to prevent the emission of sparks or embers by the owner, agent or occupant of such building. Buildings used exclusively for private residences are not within the provisions of this chapter.

- 19.45(7) **OPEN LIGHTS AND OPEN FLAME CANDLES.** No open flame candles or other open flame fixtures shall be used in any building or structure, except within a church or lodge building or structure when used as part of the actual religious or fraternal rituals or exercises. Unattended open flame candles or other open flame fixtures shall not be used in seated areas of public assembly rooms or buildings. Candles are not prohibited in a single family dwelling.
- 19.45(8) **CHIMENYS AND HEATING APPLIANCES.** All cracked, broken or otherwise defective stoves, furnaces, boilers, vents and smoke pipes shall immediately be repaired and made safe or shall be replaced with new ones.
- 19.45(9) **LIGHTING AND DECORATIVE PURPOSES.** No open flame candles or open flame fixtures, unless well guarded on top and sides and approved by the Chief of the Bureau shall be used for lighting or decorative purposes in any building or structures, used for public amusement, recreation or dining purposes.
- 19.45(10) **VARIOUS OTHER USES PROHIBITED.** No person shall use any light with an open flame in stables, clothes closets, lockers, or where highly inflammable materials, gasoline, or any volatile liquids are used or handled.
- 19.46 **HOODS AND DUCTS FOR EXHAUST SYSTEMS.** Hoods and ducts used in connection with kitchen ranges or other devices where greasy fumes are exhausted and where open flames may exist or where an open flame may spontaneously erupt shall be cleaned at regular intervals to minimize the hazards of fire.
- 19.47 Deleted with Recodification 2001.

GENERAL PROVISIONS

- 19.50 **OILY WASTE.** (1) **BUSINESS AND COMMERCIAL REQUIREMENTS.** Oils, waste and oily rags used in business places or commercial or apartment buildings when not in actual use during the day shall be kept in approved, standard, self-closing metal waste cans set firmly on 3 inch legs. Waste cans shall be installed in areas on each floor where oil waste or oily rags are used. The contents of all such waste cans shall be destroyed, burned or removed from the building at the close of each day's work.
- 19.50(2) **OILY CLOTHING.** Oily or greasy clothing used in any business place or commercial or apartment building shall not be allowed to remain on wooden floors or work benches, nor placed in wooden lockers, or hung against wooden walls or partitions. Well-ventilated metal lockers or metal-lined lockers shall be provided.
- 19.50(3) **OIL DRIP PANS.** In any business place or commercial building, metal drip pans shall be placed under all oil barrels resting on wooden floors, platforms or supports, and under all machines using oil, to catch the oil drippings and oily metal boring. (a) The contents of such drip pans shall be properly stored in metal bins until removed from the building.
- 19.50(3)(b) When a printing press or other oil-bearing machine is placed on a combustibile floor, such floor should be covered with substantial sheet metal.

19.50(3)(c) All combustible floors and platforms shall be kept free of oils, oil drippings and oily waste and rags.

19.50(3)(d) Metal oil drip cups shall be placed under all shaft bearings, including elevator machinery suspended from the ceiling.

- 19.51 SWEEPING COMPOUNDS. Sweeping compounds used within buildings shall be kept and stored in covered metal drums or containers. Sweepings shall be immediately burned or deposited in approved metal receptacles.
- 19.52 GAS APPLIANCES. All defective pipes, tubes, valves, joints or other installations connected with gas lighting or heating fixtures or systems shall be immediately repaired or replaced. The use of flexible armored gas tubing shall be limited to portable devices and in such cases only the minimum length of armored tubing necessary shall be used. There shall be but one shut-off valve, and that shall be on the gas pipe to which such tubing is attached.
- 19.53 DRAPERIES, CURTAINS AND DECORATIONS. It shall be unlawful to have flammable window draperies, curtains, or other decorative materials in any business place, public or commercial building or any place where groups of persons gather.
- 19.53(1) Fabric decoration where used shall be flame-proofed, and so maintained by owner, lessee, or occupant. At the discretion of the Village Fire Chief, window draperies or curtains may be permitted in individual rooms. Use of paper decorations, confetti, or flammable materials is prohibited.
- 19.53(2) Where drapes, curtains, or decorations are required to be flame proofed, there shall be affixed thereto a tag or other indication stating the date on which the flame proofing was done, the period of time the flame proofing will be effective, or the expiration date that the flameproofing will not be effective, and the name of the person or firm doing the flameproofing.
- 19.54 VENTILATING SYSTEMS. All mechanical ventilating systems in existing buildings or structures or in buildings and structures erected after the enactment of this ordinance, shall be provided with a master control switch at or near an outside entry door to such buildings and structures. Such master control shall be properly protected and identified, in an approved manner with a permanent sign.
- 19.55 AUTOMATIC FIRE EXTINGUISHING EQUIPMENT. (1) INTENT. The intent of this section is to require approved automatic fire extinguishing systems in vent hoods and duct systems, and includes protection of cooking equipment which may be a source of ignition, as well as providing automatic fuel shut-off, for all commercial type kitchens so as to effectively extinguish fire at its source and reduce the property damage and loss caused by kitchen fires.
- 19.55(2) DEFINITIONS. For the purpose of this chapter, the following definitions shall be applicable:
- 19.55(2)(a) Accepted. All provisions of this section have been complied with and have been approved in writing by the Fire Prevention Bureau. Basis for approval shall be by standards as established by NFPA. National Fire Prevention Associations, 470 Atlantic Avenue, Boston, Massachusetts 02110.

19.55(2)(b) Approved Automatic Fire Extinguishing Systems. An approved automatic fire extinguishing system shall be a package unit as listed by the Underwriters Laboratories, Inc. (or other nationally recognized testing laboratory). "Fire protection equipment list" in effect at the date of installation, for the extinguishment of fires, in hoods, filters, and ducts used for the ventilation of cooking equipment or a system individually designed to the applicable standards for the following type of extinguishment equipment.

19.55(2)(b)1. NFPA Number 12 (1966-Carbon Dioxide Extinguishing Systems)

19.55(2)(b)2. NFPA Number 13 (1966-Installation of Sprinkler Systems)

19.55(2)(b)3. NFPA Number 15 (1962-Water Spray Systems for Fire Protection)

19.55(2)(b)4. NFPA Number 19 (1958-Dry Chemical Extinguishing Systems)

19.55(3) WHERE REQUIRED. (a) Automatic Fire Extinguishing Systems. All hood and duct systems installed by restaurants or other establishments shall be equipped with approved automatic fire extinguishing systems designed for manual and automatic operation. All new installations shall comply before occupancy.

19.55(3)(b) Cooking Equipment. Ranges, ovens, broilers, deep fryers, grills and other cooking appliances designed for use in preparing food.

19.55(3)(c) Duct Systems. Metal enclosures or pipes attached to the hood and leading to the outside for the purpose of venting and dissipating cooking vapors and residues.

19.55(3)(d) Establishments. A building or room, public or private, where food is prepared for consumption by customers, patients or inmates, either on or off the premises of such buildings. Included in this definition are schools, churches, hospitals, nursing homes, lodges, hotels, motels, cafeterias, restaurants, food kitchens, cocktail lounges, taverns and places of detention.

19.55(3)(e) Hood. The portion of the cooking system usually installed above the cooking equipment and designed for the primary collection of cooking vapors and residues, constructed of steel, stainless steel or copper with tight joints.

19.55(3)(f) NFPA. National Fire Prevention Association, 470 Atlantic Avenue, Boston, Massachusetts 02110.

19.55(3)(g) Package Unit. A complete automatic fire extinguishing system as designed by the manufacturer and installed in accordance and compliance with the manufacturer's instructions and recommendations. Systems designed for individual installation by competent authority and approved by the State or local Building Inspector shall be deemed to be in compliance with this chapter.

19.55(3)(h) Permit. Every person, whether self-employed or employed by another who services or installs fire extinguishing systems in vent hoods and ducts within the Village of Lomira, shall first obtain a permit from the Building Inspector.

19.55(4) **INSTALLATION REQUIREMENT.** (a) Plans. A dimensional drawing or sketch showing the hood and ducts and the extinguishing systems shall be prepared together with a form showing the size of the hood and ducts, the area of the protected surface, the model, size and number of package units, the size and length of piping, the number and type of fittings, and the number of nozzles and distance of nozzles above the cooking surface. Plans and calculations for systems individually designed for NFPA No. 12, 13, 15, and 17 equipment shall be prepared as specified in the various NFPA standards and be installed as specified in NFPA #96.

19.55(4)(b) Review of Plans. All plans for automatic fire extinguishing equipment shall be State approved.

19.55(4)(c) Installation. 1. Installation of the system shall be done by or under the supervision of a factory authorized representative.

19.55(4)(c)2. Package units or individually designed units shall be installed in conformance with the limitations of the designers' or manufacturers' specifications.

19.55(4)(c)3. Hoods, except as provided below, shall be installed with a clearance of not less than eighteen (18) inches from woodwork or other combustible material. Where additional protection is provided the required clearance may be reduced in accordance with the following label:

**“REDUCTION OF HOOD CLEARANCE REQUIREMENT WHEN
ADDED PROTECTION IS PROVIDED FOR COMBUSTIBLE MATERIALS”**

Type of Protection	Clearance
19.55(4)(c)3.a. 1/4 inch asbestos millboard spaced out 1 inch on non-combustible spacers	12 inches
19.55(4)(c)3.b. 28 gauge sheet metal on 1/4 inch asbestos millboard	12 inches
19.55(4)(c)3.c. 28 gauge sheet metal spaced out 1 inch on non-combustible spacers	9 inches
19.55(4)(c)3.d. 28 gauge sheet metal on 1/8 inch asbestos millboard spaced out 1 inch on non-combustible spacers	9 inches
19.55(4)(c)3.e. 1/4 inch asbestos millboard on 1 inch mineral wood bats reinforced with wire mesh or equivalent	6 inches
	3 inches

19.55(4)(c)3.f. 22 gauge sheet metal on 1 inch mineral wood bats reinforced with mesh wire or equivalent

19.55(4)(d) Inspection. All inspections shall be done and approved by the Building Inspector.

19.55(4)(e) Maintenance. 1. All extinguishing systems shall be inspected semiannually by a factory authorized installer except small properties (those open less than 6 months a year) which shall be inspected in their open season. A certificate of this inspection of the work which has been performed, signed by the installer, owner or representative shall be submitted to the Fire Prevention Bureau within 10 days of inspection.

19.55(4)(e)2. A maintenance agreement by the installer and the owner calling for the above inspection and 24 hour maintenance service is required and must be submitted to the Fire Prevention Bureau before the installation will be inspected. The agreement shall be for at least one year duration and shall not be made a part of the purchase agreement and shall bear an effective date.

19.55(4)(e)3. The Fire Chief shall be notified whenever a system is recharged. The Bureau will consider the recharge and associated service by a factory authorized installer as equivalent to a maintenance inspection.

19.55(4)(f) Penalty. The Penalty for violating this section shall be as follows: Any violation of this section shall be cause for revocation of operating license or in the case of new construction, the occupancy permit shall be denied until compliance with this section has been satisfied.

- 19.56 AUTOMATIC SPRINKLER SYSTEMS. (1) INTENT. The intent of this section is to provide a means for the automatic extinguishment of fires in buildings or parts of buildings which because of their size, construction or occupancy or lack of suitable protective equipment, constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.
- 19.56(2) STATE REGULATIONS ADOPTED. The village of Lomira hereby adopts the following State of Wisconsin Administrative Codes (Wis. Adm. Code): Apartment Buildings, Ch. Comm 79.17; Detention Places, Ch. Comm 79.17; Elevator and Elevator Enclosures, Ch. Comm 76.10; Hotels, Ch. Comm 79.17; general Requirements, Ch. Comm 75.28; Factories, Office and Mercantile Buildings, Ch. Comm 54.01; General Requirements, Ch. Comm 51.23; and, the same are by reference made a part hereof with the same force and effect as though fully set forth herein.
- 19.56(3) FACTORIES, OFFICES AND MERCANTILE BUILDINGS. The Village of Lomira hereby adopts Wis. Adm. Code, Ch. 54.15. (a) A complete automatic sprinkler system, as specified in Wis. Adm. Code, Comm 51.23, shall be provided in every newly constructed building of this classification constructed after October 1, 1977, except office buildings not used for mercantile purposes, where more than 50 persons are employed or accommodated above the third story, except as provided herein.
- 19.56(3)(b) In every such building where more than 50 persons are employed or accommodated above the second story, an automatic sprinkler system shall be provided in the basement and subbasements, except where there is no city water supply.

19.56(3)(c) An office building in which one or more of the lower floors is used for mercantile purposes, shall be classed as a mercantile building, except that no sprinklers will be required in such portions of the building as are used for offices only.

19.56(3)(d) No sprinklers will be required in a building of fire-resistive construction whose contents are not readily combustible.

19.56(4) **AUTOMATIC SPRINKLERS.** The Village of Lomira hereby adopts §Comm 51.23, Wis. Adm Code. (a) General Requirements. All required automatic sprinkler systems shall be designed, constructed, and installed in accordance with NFPA No. 13, Standard for the Installation of Sprinkler Systems except as permitted in Chs. Comm 54 to 62. Reinstallation of used sprinkler heads is prohibited. Approved secondhand devices may be installed by special permission of the department. See §§145.12(1), 145.15(4), 145.165 and 145.175, Wis. Stats., and §§Comm 5.50 to 5.55, Wis. Adm. Code, concerning who may install, modify or maintain automatic fire sprinkler systems.

19.56(4)(b) Water Supply. 1. Approved automatic water supplies for the sprinkler system recognized by the department are listed below:

19.56(4)(b)1.a. City water main;

19.56(4)(b)1.b. Gravity or pressure tank;

19.56(4)(b)1.c. Ground storage reservoir;

19.56(4)(b)1.d. Natural bodies of water approved by the department (lakes, rivers, streams, etc.)

19.56(4)(b)2. If the water supply has inadequate pressure, an approved fire pump or tank shall be provided. The design and installation of water supply facilities for gravity tanks, fire pumps, reservoirs, or pressure tanks, and underground piping shall conform to NFPA No. 22, Standard of Water Tanks for Private Fire Protection; NFPA No. 20, Installation of Centrifugal Fire Pumps, and NFPA No. 24, Outside Protection.

19.56(4)(c) Basement Sprinklers. Every basement Sprinkler system shall also include sprinklers in all shafts (except elevator shafts) leading to the story above.

19.56(4)(d) Fire Department Connection. Every sprinkler system shall have an approved Siamese connection. The Siamese connection shall be marked and readily accessible to the fire department and shall conform to the requirements of Ch. Comm. 51.21.

19.56(4)(e) Sprinkler Alarms. Every sprinkler system shall be provided with a suitable audible alarm. In all buildings over 60 feet in height, each sprinkler system on each floor shall be equipped with a separate water flow device connected to an alarm system.

19.56(4)(f) Maintenance. All installed automatic sprinkler systems shall be properly maintained for efficient service. The employer or owner shall be responsible for the condition of his/her sprinkler system and shall use due diligence in keeping the system in good operating condition.

19.56(4)(g) Partial Automatic Sprinkler Systems. The sprinkler system shall be so installed and maintained as to provide complete coverage for all portions of the building except where partial protection is specified by this code. (See also Wis. Adm. Code, Ch. 51.23)

Note 1: **The Department of Commerce (Comm) will accept equipment, materials and devices listed or labeled by Underwriters' Laboratories or Factory Mutual. Other testing laboratories or inspection agencies will be recognized as an approved agency if accepted in writing by the department.**

Note 2: **The Department of Health and Family Services (HFS) may require additional provisions for federal certification of ambulatory surgical offices and clinics.**

Note 3: **The Department of Industry, Labor and Human Relations (DILHR) codes, rules and regulations have been recodified as a result of State reorganization.**

19.56(5) APPLICATION TO EXISTING BUILDINGS. Where the Fire Chief finds that existing buildings which are used in whole or in part for the purposes set forth in s. Comm 54.13 and which constitute a severe fire hazard to its occupants or to adjoining property may require compliance with the provisions of this chapter. Appeals may be made to the Department of Commerce excepting that the Fire Chief shall attend all hearings on such appeal and fully disclose to the Board such information that he may have pertinent to the inquiry being made.

19.56(6) EXEMPTION AND SUBSTITUTION OF OTHER FIRE PROTECTION EQUIPMENT. Nothing contained herein shall be construed as to require the installation of sprinklers in safe deposit or other vaults or in rooms or buildings devoted to the manufacture of storage of aluminum powder, calcium carbide, calcium phosphide, metallic sodium and potassium, quick lime, magnesium powder, sodium peroxide or like materials where the application of water may cause or increase combustion, nor in any other location where the installation of sprinklers may increase the hazard nor shall it be construed in any way to prohibit the substitution of other automatic protective equipment when approved by the Bureau of Fire Prevention.

19.56(7) INSPECTION. Every automatic sprinkler system required under this chapter shall be inspected upon installation and certified by the installer as meeting the requirements of Standard 13 of the National Fire Protection Association at time and date of installations. A copy of such certification shall be on file in the office of the Fire Chief.

19.57 INSPECTION AND TESTING. The activities relating to the inspection and testing of all existing automatic fire sprinkler systems as required by NFPA 25, including waterflow, and alarm tests, shall be conducted in accordance with the provisions of Wis. Adm. Code, §§Comm 51.23(6)(a) and (c).

19.60 FIRE EXTINGUISHERS AND SERVICING. (1) DEFINITIONS. (a) "Standard Fire Extinguisher" means a portable fire extinguisher which bears the label of approval of a national testing laboratory acceptable to the Village of Lomira Fire Inspector.

19.60(1)(b) "Service" means the inspection, repair, recharging or testing of fire extinguishers.

19.60(1)(c) "Class1 Substance" has the meaning given in 42 USC 767(13).

- 19.60(2) GENERAL. All required fire extinguishers shall comply with the provisions of NFPA No. 10.
- 19.60(3) INSTALLATION. Installation of all standard fire extinguishers required in sec. (2) shall be made in the manner prescribed in the most recent pamphlet NFPA No. 10, and the Comm Tables s. 51.22:3-2.1. Every fire extinguisher when installed, shall be fully charged and ready for immediate use. Where an extinguisher is likely to be obstructed by piles of stock, lumber or otherwise, a sign shall be installed and maintained which will mark the location of such extinguisher in a manner acceptable to the Chief of the Bureau of Fire Prevention and be legible at a distance of at least fifty (50) feet. In all cases, fire extinguishers shall be securely hung or placed on a shelf so the top will be no higher than five (5) feet from the floor level.
- 19.60(4) MAINTENANCE TEST. All portable fire extinguishers shall be: inspected annually; recharged as specified in the most currently revised Pamphlet NFPA No. 10A entitled, "Maintenance and Use of Portable Fire Extinguishers"; and, maintained in good condition and ready for immediate use at all times. Every fire extinguisher shall be subjected to a hydrostatic pressure test as prescribed in the most currently revised Pamphlet No. 10A.
- 19.60(5) SERVICING. Beginning on August 1, 1994, no person shall perform portable fire extinguisher servicing that releases or may release a class I substance unless the person uses equipment approved by the Department of Commerce or an independent testing organization approved by the department to capture the class I substance for recycling or reclaiming.
- 19.60(6) TAGS TO BE ATTACHED. (a) Every fire extinguisher shall have attached thereto a durable tag which clearly indicates the dates of inspection and recharging and the signature of the last service person.
- 19.60(6)(b) Every such fire extinguisher which has passed the hydrostatic pressure test as required and shall be fitted with a test record of metal or equally durable material on which the following shall appear:
- 19.60(6)(b)1. Date of test.
- 19.60(6)(b)2. Test pressure.
- 19.60(6)(b)3. Name of person making test.

REGUALTION OF FIREWORKS

- 19.70 REGUALTION OF FIRE WORKS. (1) **AUTHORITY AND TITLE.** This section is enacted under authority granted to the Village by §167.10(5), Wis. Stats., and shall be known and cited as, "Village of Lomira Regulation of Fireworks". (See also §9.03(3) of this Code.)
- 19.70(2) **DEFINITION.** In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- 19.70(2)(a) Fuel or a lubricant.

19.70(2)(b) A firearm cartridge or shotgun shell.

19.70(2)(c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.

19.70(2)(d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.

19.70(2)(e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

19.70(2)(f) A toy snake which contains no mercury.

19.70(2)(g) A model rocket engine.

19.70(2)(h) Tobacco and a tobacco product.

19.70(2)(i) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or per chlorate.

19.70(2)(j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.

19.70(2)(k) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight.

19.70(2)(L) A device that emits smoke with no external flame and does not leave the ground.

19.70(2)(m) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.

19.70(2)(n) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

19.70(3) SALE. No person may sell or possess with intent to sell fireworks, except:

19.70(3)(a) To a person holding a permit under sub. (4)(c);

19.70(3)(b) To a city, town or Village; or

19.70(3)(c) For a purpose specified under sub. (4)(b)2. To 6.

19.70(4) USE. (a) No person may possess fireworks without a Lomira possession permit from the Village President or from an official or employee of the Village as may be designated by the President. No person may use fireworks or a device listed under sub. (2)(e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c)1. to 5. or under par. (c)6. if the display is open to the general public.

19.70(4)(b) Paragraph (a) does not apply to:

19.70(4)(b)1. The Village, but fire and law enforcement officials shall be notified of the proposed use of fireworks at least 1 week in advance.

19.70(4)(b)2. The possession or use of explosives in accordance with rules or general orders of the Department of Commerce.

19.70(4)(b)3. The disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources.

19.70(4)(b)4. The possession or use of explosive or combustible materials in any manufacturing process.

19.70(4)(b)5. The possession or use of explosive or combustible materials in connection with classes conducted by education institutions.

19.70(4)(b)6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.

19.70(4)(c) A permit under this subsection may be issued only to the following:

19.70(4)(c)1. A public authority.

19.70(4)(c)2. A fair association.

19.70(4)(c)3. An amusement park.

19.70(4)(c)4. A park board.

19.70(4)(c)5. A civic organization.

19.70(4)(c)6. A group of resident or nonresident individuals.

19.70(4)(c)7. An agricultural producer for the protection of crops from predatory birds or animals.

19.70(4)(d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

19.70(4)(e) The Village when issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy, if required, shall be taken in the name of the Village. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the Village Clerk/Treasurer.

19.70(4)(f) A permit under this subsection shall specify all of the following:

19.70(4)(f)1. The name and address of the permit holder.

19.70(4)(f)2. The date on and after which fireworks may be purchased.

19.70(4)(f)3. The kind and quantity of fireworks which may be purchased.

19.70(4)(f)4. The date and location of permitted use.

19.70(4)(f)5. Proof of \$2,000,000.00 liability insurance.

19.70(4)(g) A permit under this subsection shall not be issued to a minor.

19.70(4)(h) A permit under this subsection shall not be issued to a minor.

19.70(5) OUT-OF-STATE. This section does not prohibit a resident wholesaler, dealer or jobber from selling fireworks at wholesale, if that wholesaler, dealer or jobber ships or delivers the fireworks outside of this state in sealed opaque containers by, as defined in §§194.01(1), (2) and (11), Wis. Stats., common motor carrier, contract motor carrier or private motor carrier engaged in the business of shipping or delivering property, or to a person or group granted a permit under sub. (4)(c)1. to 7.

19.70(6) STORAGE AND HANDLING. (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the Village.

19.70(6)(b) No person may smoke where fireworks are stored or handled.

19.70(6)(c) A person who stores or handles fireworks in the Village shall notify the fire and police official of the Village.

19.70(6)(d) No wholesaler, dealer or jobber may store fireworks within 100 feet of a dwelling.

19.70(6)(e) No person may store fireworks within 100 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.

19.70(7) PARENTAL LIABILITY. A parent, foster parent, treatment foster parent, family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

19.70(8) ENFORCEMENT. (a) In accordance with §167.10(8)(a), Wis. Stats., the Village may petition the circuit court for an order enjoining violation of sub. (3), (4) or (6).

19.70(8)(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section or a court order under par. (a) shall be seized. The fireworks shall be destroyed after conviction for a violation, unless be returned by court order.

19.70(8)(c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.

19.70(8)(d) The prohibitions and penalties provided in this section shall not apply to (a) gold star producing sparklers on wires which contain no magnesium, chlorate or perchlorate and toy snakes which contain no mercury; the sale and use of which shall be permitted at all times.

19.70(8)(e) The prohibitions and penalties provided in this section shall not apply to smoke novelties and party novelties which contain less than 25/100ths of a grain of explosive mixture.

FIRE PREVENTION IN OTHER PLACES

- 19.75 FIRE THROUGH NEGLIGENCE. (1) SCOPE. No person shall, within the Village of Lomira, in any hotel, motel, rooming house, lodging house, apartment house, tenement house, convalescent home, hospital, child care facility, multiple dwelling, or similar place of abode, by any means whatsoever, through carelessness, neglect or negligence, set fire to, or cause the burning of, any bedding, furniture, rugs, curtains, drapes, house or other household furnishings or fittings or any other part of said buildings or premises in such manner as to endanger the safety of person or property.
- 19.75(2) POSTING. It shall be the duty of the, manager, owner or lessee of any hotel or motel to post the provisions of this section in a conspicuous place in each room occupied by guests in such hotel or motel, and it shall be the duty of the manager, owner or lessee of any rooming home, hospital, child care facility, multiple dwelling, or similar place of abode, to post the provisions of this section in conspicuous places upon such premises. (See also §§254.76(1) and (2), Wis. Stats.)
- 19.76 SCHOOLS. The person having direct charge of any public, private or parochial school or college, shall at least once a month, without previous warning, drill all pupils in the proper method of departure from the building in case of fire.
- 19.77 BUSINESS TENTS. (1) GENERAL REQUIREMENTS. (a) Tents shall comply with the provisions this chapter and of Ch. Comm 62, subbch. III.
- 19.77(1)(b) No cloth or canvas tent intended to be used for business purposes, or for public assembly, shall be erected without a permit from the Chief or Fire Inspector of the Fire Department.
- 19.77(2) TENTS FOR BUSINESS OR PUBLIC ASSEMBLAGE. (a) Tents used for business purposes or for purposes of public assemblages shall be flame-proof and bear a label stating same. No smoking shall be permitted within such tents.
- 19.80 PENALTY. Except as otherwise specifically provided in this chapter, any person who shall violate any provisions of this chapter or who shall fail to obey any rule, regulation or order of the Fire Chief, Fire Inspector or their duly authorized deputies shall be subject to the penalty as provided in §25.04, of this Code.

Chapter 20

VILLAGE FIRE DEPARTMENT

20.01	Department Established
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20.03	Management: Adoption of Bylaws
20.04	Operational Expenses: Funding
20.06	Personal Property of Department: Storage
20.07	Organization: Membership: Residency Requirements
20.08	Village Fire Chief
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20.10	Response to Fire Alarm: Vehicles
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20.16	Response to Fire Alarm Outside Village Limits
20.17	Equipment
20.18	Inspection
20.20	Fire Hazard: Reporting
20.25	Fire: Investigation
20.28	Violation and Penalty

- 20.01 DEPARTMENT ESTABLISHED. The volunteer fire company organized under Ch. 213, Wis. Stats., under the title of “Lomira Volunteer Fire Department” is disbanded pursuant to §213.04, Wis. Stats. In lieu thereof, the members of such fire organization are officially recognized as the “VILLAGE OF LOMIRA FIRE DEPARTMENT.”
- 20.01(1) PURPOSE. The duty of firefighting and the prevention of fires in the Village and the townships to which the Village is contracted to serve with fire protection is delegated to The Village of Lomira Fire Department.
- 20.01(2) REGULATIONS. The Village Fire Department shall be governed by the provisions of §§20.01 through 20.08(13), 20.08(16) through §§20.17(2), 2.18(3) and 20.25, and by such by-laws as may be adopted by the department and approved by the Village Board, except as is otherwise provided by law or ordinance. (Ord. 115 §1(a), 1975, was 2.20.010)
- 20.02 ADOPTION OF APPLICABLE STATE STATUTES. (1) GENERAL PROVISIONS. The statutory provisions, as they may apply, describing and defining regulations with respect to municipal fire departments, fire prevention and the extinguishment of fires, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of such statutes, are hereby adopted and by reference are made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. (Cr. during codification 1999)

- 20.02(2) **CONFLICTS IN FORFEITURE OR PENALTY PROVISIONS.** If any fine, forfeiture or other penalty provided in this chapter conflicts with any applicable penalty imposed by any state statute, such penalties as are imposed by state statute shall be applied when violations occur. (Recr. fr. Ord. 115 §10, 1975, as am. and rn. as §2.20.020)
- 20.03 **MANAGEMENT: ADOPTION OF BYLAWS.** The Village Board is authorized and directed to adopt such bylaws as it sees fit for the control, management, and governance, and for the regulation of business and proceedings of the department. These bylaws, after adoption by a two-thirds' vote of the members of the department, shall not become effective and operational until presented to and approved by the Village Board. Amendments shall be adopted in the same manner. (Was Ord. 415 §1(b), 1975, as am. and rn. as §2.20.030)
- 20.04 **OPERATIONAL EXPENSES: FUNDING.** The Village Board shall appropriate funds to provide for the operation and for such apparatus and equipment for the use of the fire department as the department deems expedient and necessary to maintain efficiency, and to properly protect life and property from fire. (Was Ord. 115 §1(c), 1975, am. and rn. as. §2.20.040)
- 20.06 **PERSONAL PROPERTY OF DEPARTMENT: STORAGE.** All personal property belonging to the Village Fire Department shall be kept in the Lomira Municipal Building, with the exception of clothing and radio equipment as authorized by the Fire Chief. (Was Ord. 115 §6(a), 1975, am. and rn. as §2.20.050)
- 20.07 **ORGANIZATION: MEMBERSHIP: RESIDENCY REQUIREMENTS.** The Fire Department shall consist of the following officers: one Chief, a first and second assistant Chief, a captain, a lieutenant, a secretary, treasurer, foreman, and as many firefighters who live and normally work within the Village as may be appointed by the Chief and approved by the Village Board; providing, that at no time shall the department consist of less than thirty members, all of whom are active in the department. Should vacancies occur in the department, and there are no applications for membership from residents within the Village, applicants may be accepted from residents in the immediate vicinity of the Village limits, within a two-mile radius. (Was Ord. 115 §2(a), 1975, and am. rn. as §2.20.070)
- 20.07(1) **MEETINGS: FOREMAN TO PRESIDE.** The foreman of the Fire Department shall preside at all meetings of the department. The foreman shall have the power to preserve order, and to consult with the Chief in deciding all points of order that may arise and to enforce a rigid observance of the provisions in §§20.01 through 20.08(13), 20.08(16) through 20.17(2), 20.18(3) and 20.25, and the bylaws. (Was Ord. 115 §9(c)(2), 1975, and rn. as §2.20.140)
- 20.07(2) **MEMBERSHIP.** (a) Applicants. Any person desiring to become a member of the Fire Department shall file with the Chief of the Fire Department an application in such form as the Fire Department shall provide. (Am. and recr. fr. §2.20.080)
- 20.07(2)(b) Retirement. Active membership in the department shall cease at the age of 60 years or when the physical or mental health of the member endangers his or other firefighters' lives, unless the Village Board by a majority vote approves, upon recommendation of the Fire Department, such person continuing as an active member of the department. Upon reaching the age of sixty years, active members shall become honorary members and be relieved from firefighting duties. (Was Ord. 115 §2(c)(2), 1975, rn. as §2.20.090)

20.07(2)(c) Resignation. All resignations from the Fire Department shall take the same course as applications for and appointments for membership in the Fire Department. (Was Ord. 115 §2(c)(3), 1975, m. as §2.20.100)

20.07(2)(d) Expulsion, Demotion. Any member or officer of the Fire Department who has been expelled or demoted for any offense or neglect of duty or insubordination shall have the right to appear before the members of the Village Board and state why such penalty should not be confirmed. The Village Board may by a majority vote of the members of the Village Board order the Chief to reinstate the member so expelled, but only after a hearing of the members of the Village Board and the officers of the Fire Department. The secretary of the Fire Department shall report the name of each person expelled or demoted to the Village Board. (Was Ord. 115 §2(c)(4), 1975, m. as §2.20.110)

20.07(2)(e) Obedience to Commanding Officers. It shall be the duty of each member of the Fire Department to follow all orders given by the Chief or officer in command and to attend all meetings of the department of which he has due notice. (Recr. and m. fr. §2.20.160)

20.07(2)(f) Response to Fire Alarm: Sirens: Department Members. When an alarm of fire is sounded, all firefights shall respond. When the department arrives at the scene of a fire and enough help is available to handle the fire, those members of the department wishing to leave may obtain permission from the Chief or officer in command to do so. (Rn. and recr. fr. §2.20.370)

20.07(2)(g) Compensation. The officers and members of the Fire Department shall receive such compensation from the Village as may from time to time be fixed by the Village Board. (Was Ord. 115 §1(d), 1975, and m. as §2.20.120)

- 20.08 VILLAGE FIRE CHIEF. (1) ASSUMPTION OF OFFICE: REMOVAL. The Chief shall immediately assume office and shall hold such office until removed for cause after a hearing by action of the majority of the members of the Village Board, unless his services are sooner terminated by resignation, death, or change of residence to outside of two-miles radius of the Village limits. (Was Ord. 115 §2(b)(2), 1975, and m. as §2.20.200)
- 20.08(2) APPLICANT ELIGIBILITY. Except for initial appointments under the provisions of applicable Village regulations and ordinances in effect at the time, the Chief and assistant Chiefs shall be members of the department in good standing for at least two years, or persons with at least two years' training and experience in Fire Department operations. (Recr. from Ord. 115 §2(b)(3), 1975, which was m. as §2.20.210)
- 20.08(3) VACANCY IN OFFICE, REPLACEMENT. A vacancy in the office of the Chief shall be filled by a majority vote of the members of the Fire Department, and the name of the successful candidate shall then be presented to the Village Board by the secretary of the Fire Department, at which time the Village Board shall, by a majority vote for approval or rejection of the candidate. The Fire Department secretary shall then report the findings of the Village Board to the members of the Fire Department at the next regular meeting. Upon creation of a vacancy of the office of Chief, the ranking officer shall perform the duties of the Chief until such vacancy has been filled. (Was Ord. 115 §2(b)(1) 1975, m. as. §2.20.220)
- 20.08(4) ENFORCEMENT OF FIRE PREVENTION REGULATIONS. The Chief shall be himself or through his fire inspector enforce all fire prevention ordinances of this Village and state laws, and regulations pertaining to fire prevention, and shall keep the citizens

informed on fire prevention methods and on the activities of the department. (Ord. 115 §3(7), 1975 m. fr. §2.20.260)

- 20.08(5) **POWER TO EXPEL, DEMOTE EMPLOYEES.** The Chief shall have the power to demote or expel any officer or member of the department for neglect or refusal to perform his departmental duties, or for insubordination. Such demotion or expulsion is subject to an appeal to the Village Board. (Was Ord. 115 §3(4), 1975, m. as §2.20.270)
- 20.08(6) **MAINTENANCE OF DEPARTMENT EQUIPMENT.** The Fire Chief shall have control of all apparatus used by the department and shall be responsible for its proper maintenance. (Was §2.20.280)
- 20.08(7) **INVENTORY OF EQUIPMENT.** The Chief shall keep an inventory of all apparatus and equipment and an inventory of all hose, showing dates and results of tests on each length which shall be individually identified. (Was Ord. 115 §3(9), 1977, m. as §2.20.290)
- 20.08(8) **FILING ESTIMATE OF NEEDED FUNDS.** No later than October 1st of each year, the Chief shall file with the Village Clerk/Treasurer a detailed estimate of the appropriations needed for the operation of the department for the ensuing year. (Was Ord. 115 §3(5), 1975, m. as §2.20.300)
- 20.08(9) **REPORT TO VILLAGE BOARD.** It shall be the duty of the Chief to submit an annual written report to the Village Board no later than February 1st of each year, and a monthly report, if he deems it necessary and desirable, relating to the conditions of the various pieces of apparatus and appurtenances, the number of fires occurring since the previous report, the date of same and loss occasioned thereby, the number of members of each company, the total number of active members in the department and resignations and expulsions from the department, together with other pertinent information, including recommendations of such improvements as he deems proper and necessary for the operation and efficiency of the Fire Department. (Was Ord. 115 §3(6), 1975, m. as §2.20.310)
- 20.08(10) **RECORDATION OF FIRES.** The chief shall keep a fire record book according to NFPA standards on every fire to which the department is called. (Recr. fr. §2.20.320)
- 20.08(11) **SERVES AS FIRE INSPECTOR.** The chief of the Fire Department shall hold the office of fire inspector, with power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the fire inspector. The Chief of the Fire Department shall be a constituted deputy of the Wisconsin Department of Commerce under §101.14(2)(a), Wis. Stats., subject to the right of the department to relieve any such Chief from his/her duties as such deputy for cause, and upon suspension, to appoint some other person to perform the duty imposed upon such deputy of the Wisconsin Department of Commerce. (Was Ord. 116 §1(a), 1975, m. as §2.20.330)
- 20.09 **EXCEEDING AUTHORITY OF DEPARTMENT.** No person shall exceed the authority of the Fire Chief, or, in his absence, the authority of the assistant Chiefs, or other Fire Department officers in any matter pertaining to the proper functioning of the fire alarm system; or hinder in any manner the efficiency of the Fire Department in its response to emergencies or fire fighting services. (Was Ord. 115 §3(1)(b), 1975, m. as §2.20.150)
- 20.11 **POLICE AUTHORITY AT FIRES.** The Fire Chief and assistants or other officers in command at any fire are vested with full and complete police authority at fires according to §213.095, Wis. Stats. Any officer of the department when on duty at a fire or in

response to an alarm of fire or emergency is empowered to cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire, emergency, or alarm of fire. All officers are furthermore empowered, when at the scene of a fire, responding to an alarm of fire, or an emergency; to suppress any tumult or disorder and to order all individuals or companies to leave the neighborhood of any fire or emergency and to command from the inhabitants of the municipality or fire protection area all needful assistance for the suppression of fires and the preservation of life and property that is exposed to fire. (Was Ord. 115 §5(a)(part), 1975, rn. as §2.20.390)

- 20.12 RIGHT OF ENTRY AT FIRES. It is lawful for any firefighter while acting under the direction of the Fire Chief or other officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire. In case any person hinders, resists, or obstructs any firefighter in the discharge of his duty as is provided in §§20.01(2) through 20.08(13), 20.08(16) through 20.17(2), 20.18(3), and 20.75, the person so offending is guilty of resisting firefighters in the discharge of their duty. (Recr. fr. Ord. 115 §5(c), 1975, rn. as §2.20.400)
- 20.13 DUTIES OF BYSTANDERS TO ASSIST AT FIRES. Every person who is present at a fire is subject to the orders of the Fire Chief or officer of the Fire Department in command and may be required to render assistance in fighting the fire or in removing or guarding property. (Am. and recr. fr. Ord. 115 §5(d), 1975, rn. as §2.20.410)
- 20.14 CHAIN OF COMMAND AT FIRES. (1) CHIEF'S ABSENCE. The first assistant Chief shall assume the duties of the Chief in case of his absence. The second assistant Chief shall assume the duties of the Chief in case both the Chief and first assistant Chief are absent from a fire for any reason. (Was Ord. 115 §4(4), 1975, rn. as §2.20.420)
- 20.14(2) GENERALLY. Should the Chief and both assistant Chiefs and the senior captain be absent from a fire, the lieutenant, and if none be present, the person having charge of the apparatus first arriving at the fire, shall assume the duties of the Chief until a superior office arrives. (Recr. fr. Ord. 115 §4(5), 1975, rn. as §2.20.430)
- 20.15 FIREFIGHTING APPARATUS. (1) USE. No firefighting apparatus shall be used for any purpose except for firefighting or in training of firefighters thereof, except pursuant to an agreement by the chairperson of the fire and police commission, such equipment may be used for emergency purposes other than firefighting. (Recr. fr. Ord. 115 §4(a)(2), 1975, rn. as. §2.20.440)
- 20.15(2) DISPLAY. Firefighting equipment may be used for display or parade purposes only with the approval of the Fire Chief and only within the fire district that the Village has fire protection contracts or mutual aid agreements with. Fire vehicles and equipment must be returned immediately to the Lomira Fire Station after having been on display or in a parade. (Recr. fr. Ord. 115 §4(2)(a), 1975, ren. as. §2.20.450)
- 20.16 RESPONSE TO FIRE ALARM OUTSIDE VILLAGE LIMITS. (1) USE OF EQUIPMENT. When on call to structure fires outside the Village limits, both pumpers may respond, provided that a mutual aid pumper is called by the fire officer in charge immediately after it is determined that both pumpers will be needed. The mutual aid pumper must be stationed in the Village until at least one of the Village's pumpers returns to the station.
- 20.16(2) HONORING MUTUAL AID AGREEMENTS. Whenever a call for help comes from neighboring cities or towns, all mutual aid agreements will be honored.

- 20.16(3) STATUS OF FIREFIGHTERS. When on country fire calls, all members of the Village Fire Department shall be considered employees of the Village in the same manner as when on Village calls. (Recr. and renum. fr. §§2.20.460, 2.20.470 and 2.20.480)
- 20.17 EQUIPMENT. (1) INSPECTION. The President of the Village Board, along with the fire and police commission and the Fire Chief shall inspect the fire equipment at least once in each year for the purpose of determining the efficiency of the equipment. (Was Ord. 115 §8(a), 1975, re. as. §2.20.490)
- 20.17(2) SALE. Should it be necessary to offer for sale or to dispose of obsolete fire apparatus for the purpose of purchasing newer and more modern equipment the fire and police commission shall consult with the officers of the Fire Department as to their recommendations or comments for the disposal of such equipment. All moneys realized from the sale of such equipment shall be returned to the Village general fund. (Was Ord. 115 §8(b), 19973, re. as. §2.20.500)
- 20.18 INSPECTIONS. (1) WHEN. The Fire Chief or his deputies shall make inspections at least once in every 6 months in all territory served by the Fire Department, and not less than once in every 3 months in such territory as the Village Board shall have designated or shall thereafter designate as within the fire limits or as a congested area, or district subject to conflagration, and oftener as the Chief of the Fire Department may order. Each 3 month period shall begin on the first day of March, June, September and December. Each 6 month period shall begin on the first day of July and December of each year. (Ord. 116 §1(d), 1975, renum. fr. §2.20.510)
- 20.18(2) APPLICATION OF STATE STATUTES. Wherever applicable, §66.05, Wis. Stats., shall apply in carrying out the provisions of §§20.08(14), and (15), 20.18(1), (3), (4) and (5). (Ord. 116 §1(f), 1975, renum. fr. §2.20.520)
- 20.18(3) RECORDS AND REPORTS. The Chief of the Fire Department shall keep a record card of each property inspected which shall conform to the requirement of the industrial commission and shall make the quarterly report of inspections and notices required by the industrial commission. (Ord. 116 §2, 1975, renum. fr. §2.20.530)
- 20.18(4) UPON TENANT COMPLAINT. Whenever any owner of any building, private dwelling, or structure within the Village offers for rent any such dwelling, and upon the complaint of the tenant to the Village Board that such dwelling is unsafe for habitation, the Village Board may order the Fire Chief, his inspectors, along with the building inspector, to enter upon such premises for the purpose of ascertaining if such complaint by the tenant is just, and in good faith. If the Chief, his deputies, and the building inspector, find that such complaint is just, they shall cause the owner of such building, private dwelling, or structure to remedy such defects. (Ord. 116 §1(c), 1975, renum. fr. §2.20.540)
- 20.18(5) DISCOVERY OF HAZARD: NOTICE TO PROPERTY OWNER. Whenever or wherever in the Village and any territory served by the Fire Department any inspection by the Fire Chief or his inspector reveals a fire hazard, the Chief or his inspectors shall serve notice in writing upon the owner of the property giving said owner a reasonable time in which to remove the hazard. In the event that a fire hazard is not removed within the time allowed, it shall be deemed a nuisance, and the Fire chief or his inspectors are authorized to contact the state fire marshal or have the same removed by the Village, and the cost of such removal shall be recovered in an action by the Village against the owner of the property. The owner of the property shall have the right to appeal the Fire

Department notice to the Village board. Should the Village Board find in favor of the property owner, a written and signed copy of such findings by the Village Board shall be furnished to the Fire Chief as to why such notice shall not be enforced. (Ord. 116 §1(e), 1975, renum. and recr. fr. §2.20.560)

- 20.18(6) **OBSTRUCTING PROHIBITED.** No person shall deny the Fire Chief or his inspectors free access to any property within the Village or outlying fire protection district at any reasonable time for the purpose of making fire inspections. No person shall hinder or obstruct the Fire Chief or his inspectors in the performance of their duty or refuse to observe any lawful direction given by them. (Renum. fr. Ord. 116 §3, 1975, recr. as §2.20.570)
- 20.20 **FIRE HAZARD REPORTING.** It shall be the duty of all persons who have knowledge of conditions that exist, in any public building or upon any public thoroughfare, which could create a fire hazard or of any conditions liable to cause an immediate fire, to report such conditions to the Fire Department immediately. (Renum. fr. Ord. 115 §9(c)(1), 1975, §2.20.550)
- 20.25 **FIRE: INVESTIGATION.** In accordance with Wis. Stat., §101.14(2), the Fire Chief is recognized as a deputy of the Wisconsin Department of Commerce. The Fire Chief shall investigate or cause to be investigated the cause, origin, or circumstances of every fire occurring in his city or Village by which property has been destroyed or damaged when the damage exceeds \$25 (this provision is authorized by §105.55(1), Wis. Stats.) All fires unknown origin shall be especially investigated by the Fire Chief as to whether such fire was the result of carelessness, accident, or design. If the investigation by the Fire Chief shows that a fire may be of incendiary origin, it must be reported to the state fire marshal. (Ord. 115 §9(b), 1975, renum. fr. §2.20.580)
- 20.28 **VIOLATION AND PENALTY.** Any person violating any of the provisions of this chapter shall, upon conviction, be subject to the penalty set forth in §25.04 of this Code. (Amended during 1978 codification; (Ord. 115 §7(d)(part), 1975, renum. fr. §2.20.590, 1999)

Chapter 23

CABLE TELEVISION

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- 23.01 TITLE AND AUTHORITY. (Cr. Codification 2002) This chapter shall be known as the “Village of Lomira Cable Ordinance” and be referred to as the “Cable Television Regulations.” This chapter is enacted under authority of §66.082, Wis. Stats., to ensure that the citizens of the Village of Lomira are afforded adequate and efficient cable television service and to protect and promote public health safety and welfare.
- 23.02 GRANT OF FRANCHISE. This chapter allows the Village of Lomira to grant to a Franchise Grantee, its successors and assigns, a nonexclusive license to install, maintain, and operate a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted on a coaxial or fiber optic network including data transmission and closed circuit television programs for a term of fifteen (15) years, provided that the Franchise Grantee conforms to the conditions, limitations and requirements of this chapter. This chapter may be amended from time to time by the Village through the enactment of amendments thereto. (rn. fr. Ord. 220, §1, October, 1995)
- 23.03 EFFECTIVE DATE. This Ordinance shall take effect and be in force on 10/1/95. (rn. Fr. Ord. 220, §33, 1995)
- 23.04 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the

context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. (m. fr. Ord. 220, §2, October, 1995)

- 23.04(1) VILLAGE. The Village of Lomira, State of Wisconsin, in its present incorporated form or in any later recognized, consolidated, enlarged or reincorporated form.
- 23.04(2) CABLE. Coaxial or fiber optic cables, wave guides, or other conductors and equipment for providing video, audio, and data frequencies by cable or through its facilities as herein contemplated, and including closed-circuit special event programs and educational television.
- 23.04(3) BOARD. The governing body of the Village (Village Board of Trustees).
- 23.04(4) CUSTOMER. Any person or entity herein, receiving and paying for any purpose the services of a Grantee herein.
- 23.04(5) GRANTEE. A person or entity to whom or which a Franchise under this chapter is granted by the Village Board and the lawful successors or assigns of such person or entity.
- 23.04(6) GROSS REVENUES. Any revenue, derived directly or indirectly by a Grantee, affiliates, subsidiaries, parents, and any persons or entities in which a Grantee has a financial interest of five percent or more from or in connection with the operation of a Lomira cable system including, but not limited to, basic subscriber service monthly fees, pay cable fees and installation and reconnect fees revenues. The term does not include any taxes on service furnished by Grantee and imposed directly upon any subscriber or used by the State, Village, or other governmental unit and collected by Grantee on behalf of said governmental unit.
- 23.04(7) STREET. The surface of and space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the Village.
- 23.05 RENEWAL. (1) A Grantee shall have the right to apply to the Village for renewal or extension of the Franchise. The Village shall grant such renewal or extension application unless it finds that:
- 23.05(1)(a) The Grantee has not substantially complied with the material terms of the Ordinance and with applicable law, or its officers have been convicted of a felony;
- 23.05(1)(b) The legal, technical, or financial qualifications of the Grantee are inadequate to provide the service proposed by it;
- 23.05(1)(c) The service and facilities to be provided by the Grantee are not reasonable in light of the community need for and cost of such services and facilities.
- 23.05(1)(d) The service quality of the cable system has not been reasonable in light of the community needs; or
- 23.05(1)(e) The proposals contained in the renewal application are otherwise unreasonable.

- 23.05(2) A Grantee must file for renewal at least 30 months before the expiration of the Franchise. The Village must consider the renewal application and conduct any procedure necessary to adequately consider the application; and may not request, accept, or consider any other Franchise application until the Grantee's application is denied or approved.
- 23.05(3) The Village shall negotiate in good faith with the Grantee regarding Franchise renewal within 60 days after the completion of proceedings pursuant to 6-9-3(b); and, shall make a preliminary decision on granting or denying renewal within 4 months after receipt of an application. If the Village denies an application it must notify the Grantee by written statement, within 7 days after its decision, of the reasons for the denial.
- 23.05(4) The Grantee, if adversely affected or aggrieved by a decision of the Village made pursuant to this section, may appeal such decision in any court of competent jurisdiction. The Franchise shall remain in effect pending the completion of such appeal.
- 23.05(5) Both the Village and Grantee shall comply with all the provisions of Section 626 of the Cable Communications Policy Act of 1984 regarding renewal procedures.
- 23.05(6) In the event that the Act changes, the Village shall conduct renewal procedures in accordance with then applicable law. (rn. fr. Ord. 220, §3, October, 1995)
- 23.06 TERMINATION OR EXPIRATION. (1) GRANTEE REQUIREMENTS. Should a Grantee's Franchise be terminated or expire and there is no judicial or administrative review of the termination or expiration taking place, the Grantee shall begin removal within 90 days of termination or expiration of all property owned by the Grantee and placed on a public right-of-way unless permitted by the Village to abandon said property to a purchaser.
- 23.06(2) VILLAGE OPTIONS. In the event that a Franchise has been terminated or has expired, the Village shall have options, to the extent then permitted by law, to purchase the assets of the Grantee's cable television system previously governed by the Franchise at its fair market value as determined by any other reasonable, bona-fide offer to purchase the system, to assign such rights to purchase, or to require removal of all Grantee's property located within the public ways of the Village at the Grantee's expense. Such an option must be exercised within 1 year from the date of the revocation or expiration of the Franchise, the entry of a final judgement by a court reviewing the question of the revocation or expiration, or the entry of final order upon appeal of the same, whichever is later. (rn. fr. Ord. 220, §4, October, 1995)
- 23.07 TRANSFER PROCEDURE. All of the rights and privileges and all the obligations, duties and liabilities created by this chapter shall pass to and be binding upon the successors of the Village and the successors and assigns of any Grantee; and the same shall not be assigned or transferred without the written approval of the Village hereunder, which approval shall not be unreasonably withheld without a showing of good cause; provided however, that this section shall not prevent the assignment or pledge of a Franchise or system by a Grantee as security for debt without approval; and provided further that transfers or assignments of a Franchise between any parent and subsidiary corporation or between entities of which at least 51% of the beneficial ownership is held by the Grantee or any parent corporation shall be permitted without the prior approval of the Village. The sale, transfer, or assignment of a material portion of the tangible assets

of a grantee to an unrelated third party shall be considered an assignment subject to the provisions of this section.

- 23.07(1) The parties to the sale or transfer of a Franchise shall make a written request to the Village for its approval of a sale or transfer of the Franchise.
- 23.07(2) The Village shall reply in writing within 30 days of the request and shall indicate approval of the request or its determination that public hearing is necessary due to potential adverse effect on the Franchise subscribers.
- 23.07(3) If a public hearing is deemed necessary, the Village shall conduct such hearing within 30 days of such determination and notice of any such hearing shall be given 14 days prior to the hearing by publishing notice thereof once in a newspaper of general circulation in the area being served by the Franchise. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the Village.
- 23.07(4) Within 30 days after the public hearing, the Village shall approve or deny in writing the sale or transfer request.
- 23.07(5) The parties to the sale or transfer of a Franchise only, without the inclusion of a cable communications system in which at least substantial construction has commenced, shall establish that the sale or transfer of a Franchises only will be in the public interest.
- 23.07(6) A Grantee, upon transfer, shall within 60 days thereafter file with the Village, a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the Grantee. (m. fr. Ord. 220, §5, October, 1995)
- 23.08 FRANCHISE TERRITORY. Any Franchise is for the present territorial limits of the Village of Lomira. For any area henceforth added thereto during the term of the Franchise, service shall be extended wherever household density reaches 30 homes per plant mile, including interconnecting trunks. (m. fr. Ord. 220, §6, October, 1995)
- 23.09 CUSTOMER PRIVACY. The requirements and restrictions of §134.43, Wis. Stats., are adopted and by reference made a part of this chapter with the same force and effect as though set out in full. Failure to comply with any of the provisions of §134.43, Wis. Stats., shall constitute a violation of this chapter, punishable according to the penalties provided herein.
- 23.09(1) A Grantee shall not, except as required by governmental action, provide any data concerning specific subscribers or users to their use of subscriber services without notification in writing to the subscribers or users, and the subscriber or user is given the opportunity to object to that supplying and does not object to that supplying.
- 23.09(2) Subscribers and users shall retain the right to deactivate their terminals, but shall continue to be responsible for charges until the Grantee is notified to terminate service. (ren. Fr. Ord. 220, §7, October, 1995)
- 23.10 TECHNICAL PERFORMANCE. (1) The cable system shall be operated to comply with all guidelines and standards set by the FCC for signal quality and leakage upon proper notification. The Village reserves the right to test the system and independently measure

the signal quality. The system shall comply at all times with the applicable National Electrical Code of the National Fire Protection Association.

- 23.10(2) The Village may inspect all construction or installation work during such construction or installation, or at any time after the completion thereof, in order to insure compliance with the provisions of this chapter and all other governing ordinances. (ren. Fr. Ord. 220, §, October, 1995)
- 23.11 OPEN BOOKS AND RECORDS. Any Grantee shall manage all of its operations in accordance with the policy of totally open books and records vis-à-vis the Village. The authorized officers of the Village shall have the right to inspect, upon notice, during normal business hours all books, records, maps, plans, and service complaint logs of the Grantee that relate to the operation of the Franchise. (rn. fr. Ord. 220, §9, October, 1995)
- 23.12 CUSTOMER SERVICE. (1) The Grantee shall provide a line, either staffed or with answering capabilities, available 24 hours a day.
- 23.12(2) The Grantee shall answer service requests for service interruptions within 48 hours, excluding weekends and holidays. Problems should be rectified in 48 hours or in the case of a dispute, in fewer than 30 days. Customers shall be able to request from the Grantee that service visit occur during a 4 hour block of time in either the morning or the afternoon. (rn. fr. Ord. 220, §10, October, 1995)
- 23.13 DESCRIPTION OF SYSTEM. Upon request, a Grantee shall as part of the acceptance of a Franchise, provide a complete written description or map of the cable system in the Village of Lomira. Such written description or map shall be updated as additions or changes are made. (rn. fr. Ord. 220, §11, October, 1995)
- 23.14 RATES. All rates and charges shall be established by a Grantee. Provided however, the Village reserves its right to the maximum extent possible to regulate the rates of a Grantee, as permitted by Federal or State law, regulation or rule. In the event after the effective date of this chapter any Federal or State law, regulation or rule is at any time changed, modified, amended or repealed so as to allow for increased authority of the Village to regulate a Grantee's rates, the Village shall be permitted to do so to the maximum extent possible.
- 23.14(1) RATE SCHEDULE(S). A Grantee shall provide the Village with a rate schedule of the Grantee's charges at the time of Grantee's acceptance of a franchise. Subsequent additions or amendments to rates and service charges shall be filed with the Utility Commission at least thirty (30) days prior to the implementation of the addition or amendment. The Grantee shall give subscribers at least 30 days advance written notice before instituting a rate increase.
- 23.14(2) PROCEDURES. Pending such modification, amendment or repeal of current Federal and State laws regarding regulation of Grantee's rates, the following procedure shall apply, to the extent permittee by law:
- 23.14(2)(a) Basic Cable Service. A Grantee shall not increase its basic cable service rates without giving the Village Board written notice of any proposed basic cable service rate increase at least 30 days prior to the effective date of such increase.

23.14(2)(a)1. The Village Board may deny the Grantee such increase based upon the procedures and standards develop by the Federal Communications Commission.

23.14(2)(a)2. In the event the Village would certify to the FCC to regulate the basic service rate and at the discretion of the Village Board, the Village Board may schedule a public hearing to determine whether the Grantee's proposed basic rate increase should be granted.

23.14(2)(a)3. Grantee will cooperate fully with the Village Board in connection with such proceedings and, upon request, to supply to the Village Board, within 20 days, any additional information as may be reasonably required for determining whether the proposed increase should be granted, provided such disclosure will not violate any applicable law, confidentiality obligation or contract to which the Grantee is a party.

23.14(2)(a)4. A Grantee shall be permitted to participate in the public hearing and present its case for the proposed rate increase.

23.14(2)(b) Village Board Denial. Should the Village Board fail to deny the proposed rate increase prior to its taking effect, but determines within 30 days of the effective date of the increase that the increase should be denied or modified under the standards developed by the Federal Communications Commission, then the previous basic rate charge shall be the effective basic cable service rate charge from the first date of the month following the Village Board's action.

23.14(2)(c) Grantee May Appeal Denial. Nothing contained herein shall prevent the Grantee from challenging before any court of appropriate jurisdiction that the action of the Village Board in denying the basic cable service rate increase is arbitrary and capricious and/or violates applicable law. (rn. fr. Ord. 220, §12, October, 1995)

23.15

CONDITIONS ON STREET OCCUPANCY. (1) TRANSMISSION AND DISTRIBUTION STRUCTURES, LINES AND EQUIPMENT REGULATED. (a) All transmission and distribution structures, lines and equipment erected by a Grantee within the Village shall be so located as not to cause interference with the proper use of streets, alleys, and other public ways and places, and not to cause interference with the rights of or reasonable convenience of property owners who adjoin any of the streets, alleys, or other public ways and places.

23.15(1)(b) The Grantee shall not place poles or other fixtures where the same will interfere with any existing gas, electric, telephone, or other fixture, water hydrant, or main. All such poles or other fixtures placed in any street shall be placed between the outer edge of sidewalk and the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on such alley in such a manner as not to interfere with the usual travel on the streets, alleys, and public ways, However, nothing in this chapter shall prohibit the use by the Grantee of existing public utility poles where practical.

23.15(1)(c) A Grantee shall, on the request of any person holding a building moving permit issued by the Village under §15.15 of this Code, temporarily raise or lower its wires to permit the moving of buildings. The expenses of such temporary raising or lowering of the wires shall be paid by the person requesting the same, and the Grantee may require such payment in advance. The Grantee shall be given not less than 72 hours in advance notice to arrange for such temporary wire changes.

23.15(1)(d) The Grantee, to the same extent that the Village has such authority, may trim trees that overhang streets, alleys, sidewalks, and public places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. (m. fr. Ord. 220, §§13(D)(E) and (F), October, 1995)

23.15(2) **GRANTEE TO REPAIR DAMAGED STREET(S).** In case of any disturbance of pavement, sidewalk, driveway, or other surfacing, the Grantee shall first give notice to the Director of Public Works of any contemplated disturbances of pavement, sidewalk, driveway, or other surfacing, and shall, at its own cost and expense and in a manner approved by the Director of Public Works, replace and restore all pavement, sidewalk, driveway, or other surface of any street or alley disturbed in as good condition as before such work commenced. The Grantee shall otherwise comply with Village ordinances relating to street openings.

23.15(3) **EFFECT OF VILLAGE RELOCATIONS.** If, at any time during the period of a Franchise, the Village shall elect to alter or change the location or grade of any street, alley, or other public way, the Grantee, upon reasonable notice by the Village, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

23.15(3m) If any construction by the Grantee is in violation of the provisions of subs. (1) the Grantee shall likewise, upon reasonable notice by the Village, remove, relay and relocate its property in such a manner as to remedy such violation at its own expense. (m. fr. Ord. 220, §13, October, 1995)

23.16 **INDEMNITY.** (1) **HOLD HARMLESS PROVISION(S).** The Grantee shall defend and save the Village and its agents and employees harmless from all claims, damages, losses, and expenses including attorney's fees sustained by the Village on account of any suit, judgement, execution, claim, or demand whatsoever arising out of:
23.16(1)(a) The enactment of this Ordinance and granting of a franchise thereunder, except such claims as may arise from the Village's selection of a Grantee to be awarded a franchise pursuant to this ordinance.

23.16(1)(b) The installation, operation or maintenance of the cable system except for acts of the Village, its agents or employees, unless said acts are at the request of and under the direction or supervision of the Grantee.

23.16(2) **NOTICE OF CLAIM.** The Village shall notify the Grantee within 10 days after the presentation of any claim or demand, either by suit or otherwise made against the Village on the part of the Grantee. The Grantee shall furnish to the Village, before any franchise becomes effective, satisfactory evidence in writing that the Grantee has in force and will maintain in force during the term of the franchise public liability insurance.

23.16(3) **COMPREHENSIVE LIABILITY INSURANCE REQUIRED.** All Grantees shall maintain throughout the term of the permit a general comprehensive liability insurance policy naming as additional insured the Village, its officers, boards, commissions, agents, and employees in a form satisfactory to the Village Attorney.

23.16(3m) The policy shall protect the Village and its agencies and employees against liability for loss or damages for personal injury, death or property damage occasioned by the operations of Grantee under any franchise granted hereunder, in the amounts of:

23.16(3)(a) \$1,000,000 for bodily injury or death to any one person with the limit however of \$2,000,000 for bodily or death resulting from any one accident, and

23.16(3)(b) \$1,000,000 for property damage resulting from any one accident. The Village shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the Village Clerk. (m. fr. Ord. 220, §14, October, 1995)

23.17 SERVICE REMEDIES. A Grantee is not responsible for failure to provide adequate service caused by acts of God, strikes, governmental or military action, or other conditions beyond its control including the lack of material or parts. Except as otherwise provided, upon interruption of service of greater than 48 hours without the prior express permission of the Village, the Grantee shall provide its customers with a refund based on the following formula: (m. fr. Ord. 220, §15, October, 1995)

$$\frac{\text{Basic Service Rate} \times \# \text{ of Days}}{\# \text{ of Days in Month}}$$

23.18 FRANCHISE FEES. (1) PAYMENT SPECIFIED. A Grantee of a franchise hereunder shall pay to the Village a fee in an amount as designated in the franchise agreement, which amount shall not be less than 3% of Grantee's gross revenues. Such payment shall commence as of the effective date of the franchise or any renewal date. The Village, on an annual basis, shall be furnished a statement, within 120 days of the close of the calendar year, either audited and certified by an independent Certified Public Accountant or certified by a financial officer of the Grantee, reflecting the total amount of the revenue and all payments, deductions and computations for the period covered by the payment. Upon 10 days prior written notice, the Village shall have the right to conduct an independent audit of the Grantee's records in accordance with Generally Accepted Accounting Principles.

23.18(2) PAYMENT ACCEPTANCE NOT A RELEASE. No acceptance of any payment by the Village shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligations of the Grantee.

23.18(3) PAYMENT DATE SPECIFIED. The franchise fee shall be paid on an annual basis according to the following schedule: revenues for January through December shall be paid by February 15th of each calendar year. (m. fr. Ord. 220, §16, October, 1995)

23.19 RIGHTS OF RESIDENTS. (1) The cable television subscriber rights provided under §134.42, Wis. Stats. Are adopted and by reference made a part of this chapter with the same force and effect as though set out in full herein. Failure to comply with any of the provisions of §134.42, Wis. Stats., shall constitute a violation of this chapter, punishable according to the penalties provided by §132.42(4) and those herein.

23.19(2) An owner or operator of an apartment building condominium, nursing home, mobile home park, or any other rental facility may not interfere with or charge a fee for the installation of Cable System facilities for the use of a lessee of said property or premises, except that such owner or operator may require:

23.19(2)(a) Installation to conform to reasonable conditions necessary to protect the safety, appearance and functioning of the premises;

23.19(2)(b) The Grantee, occupant, or tenant to pay for the installation, operation, or for any damages caused by the installation operation or removal of such facilities.

23.19(2)(c) The Grantee, occupant, or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operation or removal of such facilities.

23.19(3) It shall be unlawful for the Grantee to reimburse or offer to reimburse any person, or for any person to demand or receive reimbursement from the Grantee, for the placement upon the premises of such person of Grantee's facilities necessary to connect such person's premises to the distribution lines of Grantee to provide Cable Service to said premises.

23.19(4) A landlord may not discriminate in the amount of rent charged to tenants or occupants who receive Cable Service and those who do not. (rn. fr. Ord. 220, §17, October, 1995)

23.20 RIGHTS OF THE VILLAGE. (1) The right is hereby reserved by the Village to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police powers. Such regulations, by ordinance or otherwise, shall be reasonable and shall not be in conflict with the rights granted in this chapter or those granted by the laws of the State. (Cr. During codification 2002)

23.20(2) The Village may, during the term of a Franchise, free of charge where aerial construction exists, maintain upon the poles of the Grantee within the Village limits wire and pole fixtures necessary for a police and fire alarm system, such wires and fixtures to be constructed and maintained to the satisfaction of the Grantee and in accordance with its specifications (rn. fr. Ord. 220, §18, October, 1995)

23.21 WAIVER OF CHARGES. During the term of a Franchise, the Grantee shall provide free service to any and all schools whether private, public, or parochial, within the area of the Franchise. Grantee may charge for usual installation costs. (rn. fr. Ord. 220, §19, October 1995)

23.22 ACCEPTANCE BY GRANTEE. Any Franchise granted under this chapter shall be effective upon written acceptance of the Franchise being filed with the Clerk of the Village within 30 days from the adoption hereof, and the Franchise shall continue in force for a period of 15 years. (rn. fr. Ord. 220, §21, October, 1995)

23.23 ARBITRATION. (1) Controversies arising from a Grantee's performance under the terms of this chapter shall be submitted to arbitration. Arbitration shall not be demanded by any party until such time as that party has served written notice upon the opposing party, setting forth its proposed determinations or actions which are to be the subject matter of the arbitration. Such notice shall be in writing and mailed to the other party by certified mail, return receipt requested.

23.23(2) In the event of arbitration, the parties shall select the arbitrator or if they fail to do so a Circuit judge shall select the arbitrator. The expenses of the arbitration and compensation of the arbitrator shall be borne by the Village and the Grantee as the award shall provide, but in no event shall the Village or the Grantee be obligated to pay more than one-half such expenses and compensation. The arbitration award shall be binding upon the parties. (rn. fr. Ord. 220, §22, October, 1995)

- 23..24 INCORPORATION OF AMENDMENTS. This chapter shall be amended to incorporate all amendments to the statutes, rules and regulations of the Federal government as they are promulgated by the Federal government. Any provision herein, in conflict with or preempted by said rules, regulations or statutes, shall be superseded. (rn. fr. Ord. 220, §23, October, 1995)
- 23.25 PROTECTION OF NONSUBSCRIBERS. A Grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the Grantee's service. (rn. fr. Ord. 220, §24, October, 1995)
- 23.26 GRANTEE RULES. A Grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under the Franchise and to assure uninterrupted service to all its subscribers. However, such rules, regulations, terms and conditions shall not be in conflict with the provisions of this chapter or the laws of the State. (rn. fr. Ord. 220, §25, October, 1995)
- 23.27 WAIVER OF OBJECTIONS. By the adoption of this chapter, the Village expressly waives all objections it has or may have to the legal rights of the Grantee to attach its cables, equipment, and transmission lines to the poles of the Village, pursuant to an agreement or to the poles of the public utilities and the authority of such public utilities to grant such right to the Grantee. (rn. fr. Ord. 220, §26, October, 1995)
- 23.28 GRANTEE WITHOUT RECOURSE. A Grantee shall have no recourse whatsoever against the Village for any loss, cost or expense, or damage arising out of any provisions or requirements of a Franchise or because of the enforcement thereof by the Village, or for the failure of the Village to have authority to grant all or any part of the Franchise. (rn. and am fr. Ord. 220, §27, October, 1995, during codification 2002)
- 23.29 WORK PERFORMED BY OTHERS. (1) A Grantee shall give prior notice to the Village specifying the names and addresses of any entity, other than the Grantee, that performs services pursuant to the Franchise, provided, however, that all provisions of the Franchise remain the responsibility of the Grantee.
- 23.29(2) All provisions of any Franchise shall apply to any subcontractor or other person, firm or corporation performing any work or services pursuant to the provisions of the Franchise. (rn. fr. Ord. 220, §28, October, 1995)
- 23.30 CONTEST OF VALIDITY. Grantee agrees by acceptance of a Franchise that it will not at any time set up against the Village in a claim for proceeding any condition or term of the Franchise as unreasonable, arbitrary or void, or that the Village had not proper authority to make such term or condition, but shall be required to accept the validity of the terms and conditions of the Franchise in their entirety. (rn. fr. Ord. 220, §29, October, 1995)
- 23.31 SEVERABILITY. Should any word, phrase, clause, sentence, paragraph, or portion of this chapter and or a Franchise be declared to be invalid by a Court of competent jurisdiction, such adjudication shall not affect the validity of this chapter and the Franchise as a whole, but shall only affect the portion thereof declared to be invalid; and, the Village Board hereby expressly states and declares that it would nonetheless have passed this chapter and granted the Franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said Chapter or Franchise were invalid. (rn. fr. Ord. 220, §20, October, 1995)

- 23.32 CONFLICTING ORDINANCES. Ordinances or parts of ordinances in conflict with this chapter are hereby repealed. (Recr. and rn. fr. Ord. 220, §32, October, 1995)
- 23.33 VIOLATIONS. (1) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the Company's Community Antenna System within this Village for the purpose of enabling himself or another to receive any television signal, radio signal, picture, program or sound, without payment to the Company.
- 23.33(2) It shall be unlawful for any person, firm or corporation without the consent of the Company, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, picture, programs or sound. (rn. fr. Ord. 220, §30, October, 1995)
- 23.34 PENALTIES. Any person violating or failing to comply with any of the provisions of §§23.18 or 23.33 of this chapter shall be subject to a forfeiture not to exceed \$300 for each day of a violation exists or continues. (rn. fr. Ord. 220, §31, October, 1995)

Chapter 25

CONSTRUCTION AND EFFECT OF ORDINANCES

- 25.01 Rules of Construction
- 25.02 Conflict and Separability
- 25.03 Clerk to File Documents Incorporated by Reference
- 25.04 Penalty Provisions
- 25.05 Repeal of General Provisions
- 25.06 Effect of Repeals
- 25.07 Title; Effective Date; Citation
- 25.08 Keeping Code Current: Amendments

25.01 RULES OF CONSTRUCTION. (1) In the construction of this Code of Ordinances for the Village of Lomira, Wisconsin the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

25.01(1)(a) Wisconsin Statutes. All references to “Wisconsin Statutes” or “Wis. Stats.” Shall mean the Wisconsin Statutes and Annotations for 1997-98, December, 1, 1998.

25.01(1)(b) Gender, Singular and Plural. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto. (§4 of Ord. adopted during 1978 codification, rn. fr. §1.04.040)

25.01(1)(c) Person. The word “person” extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless clearly inapplicable.

25.01(1)(d) Acts of Agents. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirements shall be constructed to include all such acts when done by an authorized agent.

25.01(1)(e) Codification Authority. This code consists of selected charter, regulatory and penal ordinances and certain of the administrative ordinances of the Village of Lomira, Wisconsin, codified pursuant to the provisions of §66.035 Wis. Stats. (Ord. 132C §3, 1979, recr. and rn. fr. §1.01.030)

25.02 CONFLICT AND SEPARABILITY. (1) CONFLICT OF PROVISIONS. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. (rn. fr. §101.060)

25.02(2) SEPARABILITY OF CODE PROVISIONS. If any section, subsection, paragraph, subdivision, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, paragraph, subdivision, sentence, clause or phrase or portion thereof. The Village Board hereby declares that it would have passed this Code and each section, subsection, paragraph, subdivision, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs, subdivisions, sentences, clauses, phrases or portions may be declared invalid or unconstitutional. (rn. and recr. fr. Ord. 132C §10, 1979)

25.03 CLERK/TREASURER TO FILE DOCUMENTS INCORPORATED BY REFERENCE. Wherever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the Clerk/Treasurer shall file, deposit and keep in his/her office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk/Treasurer's office hours, subject to such orders or regulations which the Clerk/Treasurer may prescribe for their preservation.

25.04 PENALTY PROVISIONS. (1) GENERAL PENALTY. Except as otherwise provided, any person who shall violate any of the provision of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

25.04(1)(a) First Offense. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.

25.04(1)(b) Second Offense. Any person found guilty of violating any ordinance or part of any ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 6 months.

25.04(2) CONTINUED VIOLATIONS. Each violation and each day a violation continues to occur shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

- 25.04(3) EXECUTION AGAINST DEFENDANT’S PROPERTY. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution the Village Board may designate any Village officer to enforce any provision of this Village Code.
- 25.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofore adopted by the Village Board which are in conflict with the provisions of this Code are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:
- 25.05(1) The issuance of corporate bonds, notes and obligations of the Village.
- 25.05(2) The establishment of grades, curb and ditch lines and widths of sidewalks or roadways in the public highways.
- 25.05(3) The fixing of salaries of the public officials and employees of the Village.
- 25.05(4) Rights, licenses or franchises granted by the Village or pursuant to its authority.
- 25.05(5) The creation of any contract with the Village or any of its lawfully authorized boards, committees, commissions, departments, or agencies.
- 25.05(6) The lighting of highways, roadways and streets.
- 25.05(7) The naming and changing of names for public highways, grounds and parks.
- 25.05(8) Release or persons, firms or corporations from liability.
- 25.05(9) Tax and special assessment levies.
- 25.05(10) Construction of public works.
- 25.05(11) Budget ordinances, resolutions and actions.
- 25.06 EFFECT OF REPEALS. The repeal or amendment of any section or provision of this Code or of any other ordinance, by law or resolution of the Village Board shall not:
- 25.06(1) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.
- 25.06(2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been specifically reserved by the Village. (recr. fr. Ord. 132C §7, 1979)
- 25.06(3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has been mitigated by the prevision(s) of any ordinance, such provision(s) shall apply to and control any judgement to be pronounced after such ordinance takes effect for any offense committed prior to that time.

- 25.06(4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture which is pending at the time when any ordinance aforesaid is repealed or amended; but the right of action(s) shall continue and the offender shall be subject to the penalty as provided in such ordinance(s), and such prosecution shall proceed, in all respects, as if such ordinance(s) had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.
- 25.07 TITLE; CITATION; EFFECTIVE DATE. (1) TITLE AND CITATION. These ordinances shall be known as the “Code of Ordinances for the Village of Lomira, Wisconsin” and shall take effect from and after passage and publication as provided in §66.035, Wis. Stats. All references thereto shall be cited by section number (example; §[chapter], Code of Ordinances, Village of Lomira, Wisconsin). (recr. fr. Ord. 132C §1, 1979)
- 25.07(2) EFFECTIVE DATE. This Code was adopted [Date] by the Village Board of Lomira.
- 25.08 KEEPING CODE CURRENT: AMENDMENTS. As each ordinance or resolution affecting this Code of Ordinances becomes effective, the Village Clerk/Treasurer shall incorporate same into the Code. However, the Village Clerk/Treasurer may elect to forward said resolutions or ordinances to a Revisor. The Revisor shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit same without first submitting them to the Village Board; and, such rearranging, renumbering and editing shall not affect the validity thereof or the other provisions of this Code of Ordinances affected thereby.

Chapter 26

IMPACT FEES

- 26.01 Introduction and Purpose
- 26.02 Definitions
- 26.03 Public Facilities Needs Assessment
- 26.04 Impact Fee Revenue Administration
- 26.05 use of Impact Fees
- 26.06 Payment of Impact Fees
- 26.07 Appeals
- 26.08 Sanitary Sewer Impact Fees

- 26.01 INTRODUCTION AND PURPOSE. Pursuant to the authority of Section 66.0617, Wisconsin Statutes, the local impact fees enabling legislation, the purpose of this ordinance is to establish the mechanism for the imposition of Impact Fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding and constructing public facilities which are necessary to accommodate land development. This chapter is intended to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public facilities within the Village of Lomira and its service areas as they are required to serve the needs arising out of land development.
- 26.02 DEFINITIONS. In this section “Capital Costs” means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless such costs which relate directly to the public improvement for which the impact fees were imposed actually exceed 10% of capital costs. “Capital Costs” does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.
- 26.02(1) DEVELOPER. Developer means a person that constructs or creates a land development.

- 26.02(2) **IMPACT FEES.** Impact Fees means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer under this chapter.
- 26.02(3) **LAND DEVELOPMENT.** Land Development means the construction or modification of Improvements to real property that creates additional residential dwelling units within the Village or its service areas or that result in nonresidential uses that create a need for new, expanded or improved public facilities.
- 26.02(4) **PUBLIC FACILITIES.** Public Facilities means highways, as defined in section 340.01(22), Wis. Stats., and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and other recreation facilities, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. "Public Facilities" does not include facilities owned by a school district.
- 26.02(5) **SERVICE AREA.** Service Area means a geographic area delineated by the Village Board within which the Village provides public facilities.
- 26.02(6) **SERVICE STANDARD.** Service Standard means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the Village Board.
- 26.03 **PUBLIC FACILITIES NEEDS ASSESSMENT.** New public facilities, or improvements or expansions of existing public facilities that are required because of land development for which impact fees will be imposed are those which are identified in this chapter and in facilities needs assessment reports prepared prior to the adoption of this chapter and any amendments hereto. All facilities need reports that form the basis of any Impact Fee imposed by the Village shall be kept on file in the office of the Village Clerk at least 20 days prior to any public hearing to be held on the creation of this chapter and any amendments. A Class 1 notice is required prior to any required hearing. All facilities need assessment reports shall remain on file in the office of the City Clerk for the entire period during which impact fees arising out of a specific report and this chapter are collected prior to expenditure, and such report shall after expenditure of all impact fees be maintained as a public record for such time period as required by law.
- 26.04 **IMPACT FEE REVENUE ADMINISTRATION.** (1) Revenues from impact fees shall be placed in one or more segregated, interest-bearing accounts and shall be accounted for separately from other Village general and utility funds. Impact Fee revenues and interest earned thereon may be expended only for capital costs for which the impact fees were imposed.
- 26.04(2) Impact Fee revenues imposed and collected but not used within a specified reasonable period of time after collection to pay the capital costs for which they were imposed shall be refunded on a prorated proportional basis, as determined by the Village Board, to the current record owner or owners of the property with respect to which the impact fees were imposed. Reasonable time periods for expenditure of impact fee revenues shall be within five years after the recommended time for completion of construction, expansion or improvement of a specific public facility identified in a facilities needs assessment report, or within five years after the projected loan obligations under taken for project should be satisfied.

- 26.05 USE OF IMPACT FEES. Funds collected from impact fees shall be used solely for the purpose of paying the proportionate costs of providing public facilities that become necessary due to land development. These costs may include the costs of debt service on bonds or similar debt instruments when the debt has been incurred for the purpose of proceeding with designated public facilities projects prior to the collection of all anticipated impact fees for that project.
- 26.06 PAYMENT OF IMPACT FEES. All required impact fees, unless expressly excepted in a section of this chapter, are payable as specified herein, and shall be paid to the Village Clerk by the developer prior to being issued a building or plumbing permit, or both, whichever permits are applicable. Impact fee payments shall be assumed to be the responsibility of the owner of record at the time the fee is imposed on a particular parcel.
- 26.07 APPEALS. (1) The developer or property owner upon whom an impact fee is imposed may contest the amount, collection, or use of an impact fee as specified herein. An appeal to contest either the amount or collection of an impact fee imposed on a developer shall be commenced at any time prior to endorsement of the approval certificate on any subdivision plat or certified survey map by the Village Clerk but not later than thirty (30) days from the date of notification of final action approving such plat or survey. An appeal to contest the amount or collection of an impact fee may be commenced within thirty days of application for a building or plumbing permit, if applicable to the particular impact fee. An appeal to contest the use of an impact fee shall be commenced not later than thirty (30) days prior to the award of any public contract for expenditure of the collected fee revenues.
- 26.07(2) An appeal is commenced by filing a complaint with the Village Clerk which complaint shall specify the impact fee amount or collection objected to and the basis for the objection. The appeal shall be scheduled for a public hearing before the Village Board at its next regular meeting. The Board shall take additional evidence and testimony on the matter, including reports from Village staff, and shall make its decision based upon the standards set forth in sec. 66.0617(6) Wis. Stats. The Village Board shall consider and decide the appeal, based upon the standards for impact fees in sec. 66.0617(6), The decision of the Village Board is final.
- 26.08 SEWER IMPACT FEES. The basis for the imposition of sewer impact fees is the facilities needs assessment report and its attachments, “WASTEWATER IMPACT FEE ANALYSIS”, which is on file in the office of the Village Clerk. The sewer Impact Fees to be paid prior to the issuance of applicable building or plumbing permits are as follows:
- 26.08(1) These fees shall be \$1200 per residential equivalent unit (REU).
- 26.08(2) As determined by the Village Board, each dwelling unit in a multi-family structure shall be treated as an individual residence, generating one residential equivalent unit (REU).
- 26.08(3) For all commercial, industrial and institutional uses, the Village shall estimate the usage based upon the Village’s REU. After one year of use, the fee shall be adjusted based upon the actual number of REU’s that are used, and if the use is greater than the estimate, the difference will be charged to the property owner. If the use is less than the estimate the difference will be refunded to the property owner.
- 26.08(4) These fees do not apply in cases where an existing building is being hooked up to an existing sewer lateral or to a sewer lateral that has been replaced or repaired, unless the

discharge has increased to more than the discharge provided by the impact fee previously paid. In cases where an increase in the discharge can be demonstrated, the differential between the existing sewer service and the expanded sewer service shall be the basis for determining the applicable impact, and such determination shall be made by the Village Board.

- 26.08(5) These impact fees shall be collected until all capital costs associated with specified projects in the “WASTEWATER IMPACT FEE ANALYSIS” report have been incurred and satisfied, unless such time period exceeds five years beyond projected satisfaction of indebtedness for the specified projects for which these sewer impact fees are imposed.
- 26.08(6) These impact fees shall be applicable to those persons, properties, and premises which are located in the Village of Lomira sewer service area.
- 26.09 CONSTRUCTION. All ordinances or parts of ordinances inconsistent with or contravening the provisions of this ordinance are hereby repealed.

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GENERAL CODE OF ORDINANCES
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