

## CHAPTER 8

### INDEX/TAB

<b>CHAPTER 8</b>	<b>1</b>
<b>8.01 PURPOSE</b>	<b>1</b>
<b>8.02 GENERAL ADMINISTRATION</b>	<b>2</b>
<b>8.03 AUTHORITY</b>	<b>5</b>
<b>8.04 JURISDICTION</b>	<b>5</b>
<b>8.05 INTERPRETATION AND CONSTRUCTION</b>	<b>5</b>
<b>8.06 DEFINITIONS</b>	<b>6</b>
<b>8.07 DISTRICT ESTABLISHMENT, USE AND REGULATION</b>	<b>13</b>
<b>8.08 NONCONFORMING STRUCTURES</b>	<b>15</b>
<b>8.09 SUBSTANDARD LOTS</b>	<b>15</b>
<b>8.10 RESIDENTIAL CONSERVATION OVERLAY DISTRICT ESTABLISHMENT,     USES AND STANDARDS OF REVIEW</b>	<b>16</b>
<b>8.11 VARIANCES</b>	<b>24</b>
<b>8.12 VIOLATION AND PENALTY</b>	<b>25</b>
<b>8.13 BOARD OF APPEALS</b>	<b>26</b>
<b>8.14 FENCES</b>	<b>27</b>
<b>8.15 AMENDMENTS</b>	<b>30</b>

## CHAPTER 8

### PLANNING AND ZONING

8.01	Purpose
8.02	General Administration
8.03	Authority
8.04	Jurisdiction
8.05	Interpretation and Construction
8.06	Definitions
8.07	District Establishment, Use and Regulation
8.08	Nonconforming Structures
8.09	Substandard Lots
8.10	Residential Conservation Overlay District Establishment, Uses and Standards of Review
8.11	Variances
8.12	Violations and Penalty
8.13	Board of Appeals
8.14	Fences
8.15	Amendments

#### **8.01 PURPOSE**

*Repealed and recreated by Ordinance 2022-2 on 5.23.2022*

The purpose of this Ordinance is to promote the public health, safety and general welfare of the community and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to prevent overcrowding of lands; to avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to insure proper legal description and proper monumenting of land subdivided. The historic Village of North Bay is an eclectic confluence of architectural styles deployed over several decades. Houses were designed to complement the rolling landscape, lake views, original trees, and existing homes creating the “North Bay aesthetic”. This unique mosaic of contemporary, traditional and revival architecture that characterizes North Bay has attracted home buyers from across the country. It is a source of pride to residents and is a key component of maintaining our unique completely exclusive residential community which is the only complete residential community in Racine County. These regulations are made with reasonable consideration, among other things, of the character of the Village with a view of conserving if not increasing the value of the buildings placed upon land, providing the best possible environment for human habitation and for encouraging the most appropriate use of land throughout the Village.

## **8.02 GENERAL ADMINISTRATION**

- (1) The primary administration of this section is hereby vested in the Village Board, Village Planning Commission, Board of Appeals and Zoning Administrator, all as described in the Village of North Bay Code of Ordinances. This includes, but is not limited to, the procedures and substantive standards with respect to the following administrative functions:
  - (a) Issuance of occupancy certificate
  - (b) Variances
  - (c) Appeals
  - (d) Amendments
  - (e) Conditional Uses
  - (f) Fees
  - (g) Penalties
- (2) Zoning Administrator | The Village President shall be the Village Zoning Administrator. The Village Zoning Administrator, and/or his designee, shall have duties that include, but which are not limited to, the following:
  - (a) Issue all certificates of occupancy, and make and maintain records thereof;
  - (b) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter;
  - (c) Issue violation notices as may be necessary to obtain compliance with the terms of this Chapter and/or other provisions of the Village of North Bay Code of Ordinances;
  - (d) Require all construction of work of any type be stopped when such work is not in compliance with this Chapter and/or the Village of North Bay Code of Ordinances; and revoke any permit which was unlawfully issued;
  - (e) Review and approve or deny all applications for approval of nonlisted uses;
  - (f) Deliver to the Village Clerk for safekeeping, all permanent and current records of this Chapter, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, and applications thereof;
  - (g) Assist in providing public information relative to this Chapter;
  - (h) Forward to the Village Clerk all applications for conditional uses and for amendments to this Chapter that are initially filed with the office of the Zoning Administrator;
  - (i) Forward to the Board of Appeals applications for appeals, variances, or other matter on which the Board of Appeals is required to pass under this Chapter;
  - (j) Forward to the applicable Village board, commission, and/or committee copies of all applications for variances, conditional uses, and amendments affecting property designated as a landmark;

- (k) Enforce all orders of the Board of Appeals;
  - (l) Initiate, direct, and review, from time to time, a study of the provisions of this Chapter, and make a report of his recommendations to the Village Planning Commission not less frequently than once a year; and
  - (m) Undertake any other matters pertaining to this Chapter and/or as may, from time to time, be delegated to the Village Zoning Administrator by the Village Board.
- (3) Village Planning Commission
- (a) Creation and Rules. The Village Planning Commission, as established under the provisions of Wisconsin Statutes 61.35 and §62.23(1), is the plan commission referred to in this Chapter. The Village President, or his designee, shall be the Chairman of the Village Planning Commission.
  - (b) Jurisdiction. The Planning Commission shall discharge the following duties under this Chapter:
    - (i) Review and report on all matters referred to it by the Village Board pursuant to Wis. Stats. §62.23(5).
    - (ii) Review all applications for conditional uses, hold hearings thereon, and recommend action to the Village Board, as prescribed in Article III of this Chapter, pertaining to conditional uses.
    - (iii) Undertake any other duties as may, from time to time, be delegated to the Village Planning Commission by the Village Board or by state statute.
- (4) Board of Appeals
- (a) Creation and Membership. The Board of Appeals shall consist of five members appointed by the Village President, subject to the confirmation of the Village Board of Trustees. Vacancies to fill the unexpired terms of the members whose terms become vacant shall be made in accordance with the provisions of Wis. Stats. 62.37(7)(e)2. The Village President shall also appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the Village President shall designate one of the alternate members as first alternate and the other as second alternate. The 1<sup>st</sup> alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent.
  - (b) Jurisdiction. The Board of Appeals shall have the powers granted in Wis. Stats. §62.23(7)(e)7, including, but not limited to:
    - (i) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator under this Chapter.

- (ii) To hear and pass upon applications for special exceptions or variances from the terms of this Chapter.
  - (iii) To hear and decide all matters referred to it or upon which it is required to pass under this Chapter.
- (c) Meetings and Rules. The Board of Appeals may adopt rules and regulations for its own government, not inconsistent with law or with the provisions of this Chapter and of any other ordinance of the Village. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence, the acting Chairman may administer oaths and compel the attendance of witnesses.
- (d) Hearings; Records; Quorum; Actions. Hearings of the Board of Appeals shall be public. The Board shall designate the Village Clerk or some other suitable person to act as its Secretary. The Secretary shall keep minutes of its proceedings, showing the action of the Board and vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of examinations and other office actions, all of which shall be immediately filed in the office of the Board and shall be public record. The presence of three members of the Board, including alternates as necessary, shall constitute a quorum. If a quorum is present, the Board of Appeals may take action by a majority vote of the members present. The Board shall act by resolution. See 8.13.
- (e) Assistance from Other Officers or Departments. The Board of Appeals may call on other Village Officials for assistance in the performance of its duties and it shall be the duty of each office to render such assistance to the Board as it may reasonably require.
- (f) Powers of Review. Upon request properly made for review, the Board of Appeals shall review any order requiring decision or determination made by the Zoning Administrator or Building Inspector pursuant to provisions of this Chapter. In addition thereto, the Board shall have the authority to hear and decide all matters referred to by the Planning Commission, Zoning Administrator, Building Inspector for the Village Board. If in the opinion of the Village President or Village Board it believes the Board of Appeals should review and make a determination on a matter of public concern, the matter may be referred directly to the Board of Appeals without prior decision for a determination.
- (g) Determinations. The concurring vote of three members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass, or to effect any variation in this Chapter. The grounds of every such determination shall be stated.
- (h) Finality of Decision. All decisions and findings of the Board of Appeals on any application for a variance, after a public hearing, shall, in all

instances, be the final administrative decision and shall be subject to judicial review. No application for a variance which has been denied by the Board may be resubmitted for a period of one year from the date of the order of denial, except under extraordinary circumstances or on the grounds of new evidence discoverable after the hearing or proof of substantially changed conditions found to be valid by the Board. (Code 1973, §16.03.030; Ord. No. 2-92, pt. 1, 2-19-92. Cross reference-Boards, Committees, Commissions. §2-166. State law reference-Board of Appeals, Wis. Stats. §62.23(7)(e).

### **8.03 AUTHORITY**

This Ordinance is adopted by virtue of authority provided under Sections 61.35 and 62.23 and Chapter 236 of the Wisconsin Statutes.

### **8.04 JURISDICTION**

Jurisdiction of this Ordinance shall include all lands within the corporate limits of the Village of North Bay.

### **8.05 INTERPRETATION AND CONSTRUCTION**

- (1) Existing Restrictions. It is not intended by this Ordinance to repeal, abrogate or interfere with any existing easements, covenants or agreements, however, where this Ordinance imposes a greater restriction on the use of buildings or premises than are required by easements, covenants or agreements, the provisions of this Ordinance shall govern.
- (2) Minimum Requirement. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (3) Construction. In the construction of this Chapter the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise. In further amplification and for clarity of interpretation of the context, the following definitions of word use shall apply:
  - (a) Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.
  - (b) The word “shall” is mandatory and not discretionary.
  - (c) The word “may” is permissive.
  - (d) The word “lot” shall include the words “piece”, “parcel”, and “plots”; and the word “building” includes all other structures of every kind regardless of similarity to buildings; and the phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, and “occupied for”.
  - (e) All “measured distances” shall be to the nearest foot. If a fraction is one-half or less, the full number next below shall be taken.

## **8.06 DEFINITIONS**

The following words, terms and phrases, when used in this Chapter and/or in other provisions of the Village of North Bay Code of Ordinances, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning.

- (1) Accessory building, structures or use means a building, structure or use which is:
  - (a) Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this Chapter;
  - (b) Clearly incidental to, subordinate in purpose to, and serves the principal use.
  - (c) "Accessory building" shall specifically include, without limitation due to enumeration, all storage sheds, gardening sheds, gazebos and greenhouses, but shall not include garages, which are regulated separately under Section 8.07(3) of this Chapter. (Amended by Ordinance 2015-02 on 06-08-15).
- (2) Advertising device means any advertising sign, billboard, statuary or poster panel which directs attention to a business, commodity, or service offered at any premises in the Village.
- (3) Basement means any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (4) Boathouse means a structure used for the storage of watercraft and associated materials which has one or more walls or sides.
- (5) Building means any structure built, used, designed, or intended for the support shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land, stream or lake bed.\
- (6) Building, detached means a building surrounded by open space on the same lot.
- (7) Building height means the vertical distance from the grade of the street (as measured from the highest point at the centerline of that portion of the street that fronts the lot) to the highest point of any part of the building located on the lot. (Amended by Ordinance No. 2007-01 on 06/11/07)
- (8) Certificate, occupancy means the written approval of the Zoning Administrator that authorizes a person or persons to occupy or use as premises, as established in section 114-96. The occupancy certificate may consist of a standardized independent form bearing the signature of the Zoning Administrator or it may be represented as part of the building permit.
- (9) Class 2 public notice means newspaper publication and/or posting satisfying the requirements of Wis. Stats. Chapter 985 and as otherwise allowed by law. (Amended by Ordinance 2016-01 on 07-11-16).
- (10) Club or lodge, private (nonprofit) means a nonprofit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion, thereof; the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the

members. It shall be permissible to serve food, meals and beverages on such premises.

- (11) Community living arrangement means any facility, licensed, or operating or permitted under the authority of the State Department of Social Services, where five or more unrelated persons reside, in which care, treatment, or services above the level of room and board, but less than skilled nursing care, is provided to persons residing in the facility. Such care, treatment, or services are provided as a primary function of such facility. Nursing homes, general hospitals, special hospitals, prisons, jails, pre-release centers, detention centers and foster homes for four or fewer children are not community living arrangements for purposes of this Chapter.
- (11.5) *Created by Ordinance 2022-2 on 5.23.2022*  
“Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
- (12) Convalescent or nursing home means a private home for the care of the aged or infirm, or a place of rest for those suffering from bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury.
- (13) Cross Creek Territory means those parcels lying along both sides of a thirty foot easement known as Cross Creek Road between North Main and Erie Street and adjacent to the north boundary of the Village, all as shown on current Village maps, shall not be further subdivided except as described in Section 8.06 of this Code without the approval of the Village Planning Commission. Any such permitted subdivision shall be upon terms, requirements and conditions as to lot size, road and easement dedication and other items as the Village Planning Commission shall designate.
- (14) Daycare center, group means any establishment licensed by the State which provides supplemental parental care and supervision and/or educational instruction to nine or more children under seven years of age during the whole or any portion of the day.
- (15) Daycare home, family means any establishment licensed by the State which provides supplemental parental care and supervision and/or educational instruction for four to eight children under the age of seven years of age during the whole or any portion of the day in the provider's home.
- (16) Development means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.
- (17) Drainage system means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.



- (18) Dwelling means a building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, multiple-family dwellings and apartment hotels, but not including hotels or motels.
- (19) Dwelling, multiple-family means a building, or portion thereof, containing three or more dwelling units.
- (20) Dwelling, single-family means a building containing one dwelling unit only.
- (21) Dwelling, two-family means a building containing two dwelling units.
- (22) Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used, for living, sleeping, cooking and eating.
- (23) Environmental control facility means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or reduced by other pollution control facilities.
- (24) Existing Subdivision. Those parcels of land within the Village which are included in a presently platted and recorded subdivision.
- (25) Family means an individual or two or more persons related by blood, marriage, or legal adoption living together as a single housekeeping unit within a dwelling unit, including foster children, domestic servants, and not more than three guests or roomers. The word "family" shall include not more than four unrelated persons living together as a single housekeeping unit.
- (26) Fence. A fence is an artificial structure of posts and boards, wire, pickets, panels, rails or similar materials that is used as an enclosure of land. For purposes of this Chapter, a fence shall not include vegetation, nor shall it include a retaining wall that retains or supports earth. Additionally, a fence shall not include a temporary snow fence that is installed and removed within the months of November through April, nor shall it include any temporary fence required by law, nor shall it include an "invisible fence" which is comprised entirely of buried wiring and which is designed to contain pets. (Added by Ordinance 2013-04 on 10/15/13)
- (27) Flea market means a use occupying a building, structure or vacant lot whereby the owner or his agent sells, leases, or makes available space to transient merchants who vend, sell or dispose of, or offer to vend, sell or dispose of, new or used goods, wares or merchandise daily or at less frequent intervals; such term does not include arts and craft fairs, bazaars, festivals, or similar activities held by nonprofit organizations, neighborhood garage or rummage sales, or any farmer or truck gardener selling or disposing of products of the farm or garden occupied or cultivated by him.
- (28) Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas caused by:
  - (a) The overflow or rise of inland waters;
  - (b) The rapid accumulation or runoff of surface waters from any source;

- (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan;
  - (d) The sudden increase caused by an unusually high water level in a natural body of water, accomplished by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (29) Flood profile means a graph or a longitudinal profile showing the relationship of the water surface elevation on a flood event to locations along a stream or river.
- (30) Flood protection elevation shall correspond to a point two feet of freeboard above the water surface profile associated with the regional flood and the official floodway lines.
- (31) Frontage means the length of all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- (32) Garage means a detached garage and/or an attached garage used for housing the motor vehicles of the occupants of the premises. (Amended by Ordinance No. 2007-02 on 10/3/07)
- (33) Garage, storage. (Deleted by Ordinance No. 2007-02 on 10/3/07)
- (34) Grade means the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
- (35) Ground floor means that level of a building located substantially at grade.
- (36) Guest, permanent means a person who occupies or has the right to occupy a hotel or motel or apartment hotel accommodation as his domicile and place of permanent residence.
- (37) Historic structure means any structure:
- (a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the national register;
  - (b) Certified or preliminary determination by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
  - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
  - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by any approved state program as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.
- (38) Home Occupation means any occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no sign or display that will indicate from the exterior that the building is being

- utilized in whole or in part for any purpose other than that of a dwelling; no stock in trade or commodities are sold; no person is employed other than a member of the immediate family residing on the premises; no mechanical or electrical equipment visible or audible from the exterior of the premises is used except such as is permissible for purely domestic or household purposes; and the occupation or profession does not involve dealing directly with consumers on the premises.
- (39) Incompatible use means a use or service which is unsuitable for direct association with certain other uses because it is contradictory, incongruous, or discordant.
- (40) Lodging room (rooming unit) means a room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room for the purposes of this chapter.
- (41) Lodginghouse (including “boardinghouse” and “roominghouse”) means a residential building, or portion thereof, other than a motel, apartment hotel, or hotel containing lodging rooms which accommodate persons who are not members of the keeper’s family. Lodging with or without meals is provided for compensation on monthly or less basis.
- (42) Lot means a parcel of land which is either a “lot of record” or a “zoning lot”.
- (43) Lot area, gross means the area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters or a duly recorded lake or river.
- (44) Lot, corner means a lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.
- (45) Lot depth means the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
- (46) Lot, interior, means a lot other than a corner or reversed corner lot.
- (47) Lot line, front means that boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line. In the case of a landlocked or partially landlocked land, the front lot line shall be that lot line that faces the access of the lot.
- (48) Lot line, rear means that boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.
- (49) Lot line, side means any boundary of a lot which is not a front lot line or a rear lot line.
- (50) Lot of record means a lot which is part of a subdivision recorded in the office of the county register of deeds, but which has not been reduced from its platted size by conveyance of a part thereof; or is a parcel of land, the deed to which was recorded in the office of such register of deeds prior to May 1, 1961.
- (51) Lot, width means the horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first 30 feet or lot depth immediately in back of the front yard setback lines.

- (52) Navigable waters means Lake Michigan.
- (53) Nonconforming building or structure means any building or structure, lawful at the time of enactment of this chapter, which;
  - (a) Does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which such building or structure is located;
  - (b) Is designed or intended for a nonconforming use.
- (54) Nonconforming use means any use of land, buildings, or structures, lawful at the time of the enactment of this chapter, which does not comply with all of the regulations of this chapter or of any amendment hereto governing use of the zoning districts in which such use is located.
- (55) Ordinary high water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (56) Overnight parking, for the purpose of this chapter, shall constitute the parking of a motor vehicle, boat or trailer between the hours of 2:00 a.m. and 7:00 a.m.
- (57) Parking space means an enclosed or unenclosed surfaced area permanently reserved for the temporary storage of one automobile and appropriately connected with a street or alley by a surfaced driveway affording adequate ingress and egress. Such space shall be at least nine feet in width and 19 feet in length and shall meet all other requirements imposed by the Village.
- (58) Professional office means the office of a doctor, dentist, minister, architect, landscape architect, professional engineer, realtor, lawyer, author, musician, or other recognized professional.
- (59) Rooming unit is a term used in this chapter to regulate residential density in boarding houses, lodging houses, and rooming houses. Rooming unit is synonymous with "lodging room".
- (60) Setback indicates the maximum distance maintained between a street right-of-way and the nearest supporting member of any structure on the lot.
- (61) Shorelands means the lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage, or 300 feet from a river or stream or the landward side of the floodplain, whichever distance is greater.
- (62) Shore Acres Territory means those parcels south of North Bay subdivision and east of Bayside subdivision, all as shown on current Village maps, shall not be further subdivided except as described in Section 8.06 of this Code without the approval of the Village Planning Commission. Any such permitted subdivision shall be upon terms, requirements and conditions as to lot size, road and easement dedication and other items as the Village Planning Commission shall designate.
- (63) Sign means a name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business. The term "sign" shall not include a sign

located completely within an enclosed building, which sign is not visible from outside the building, unless the context shall so indicate.

- (64) Sign, advertising means a sign which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.
- (65) Sign, business means a sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered upon, the premises where such sign is located or affixed. Public service information promoting noncommercial items of general interest to the community may be included on a business sign.
- (66) Sign, political means any temporary sign which supports the candidacy of any candidate for public office or urges action on any other matter on the ballot of primary, general, or special elections.
- (67) South Creek Territory means those parcels lying between North Main and Erie Streets and adjacent to the south boundary of the Village, all as shown on current Village maps, shall not be further subdivided except as described in Section 8.06 of this Code without the approval of the Village Planning Commission. Any such permitted subdivision shall be upon terms, requirements and condition as to lot size, road and easement dedication and other items as the Village Planning Commission shall designate.
- (68) Street means a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway, or however otherwise designated, but does not include driveway to buildings.
- (69) Structural alteration means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.
- (70) Structure means anything which is placed, constructed or erected on the ground or attached to something on the ground. Structures shall include, but not be limited to, solar apparatus, windmills, satellite earth stations, and swimming pools.
- (71) Use *Repealed by Ordinance 2022-2 on May 23, 2022 , See Section 8.10 (4-15)*
- (72) Use, permitted means a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such districts.
- (73) Yard means an open space on the same zoning lot with a building or structure, unoccupied and unobstructed from its lowest level to the sky. A “yard” extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.
- (74) Yard, front means a yard extending along the full length of the front lot line between the side lot lines.
- (75) Yard, rear means a yard extending along the full length of the rear lot line between the side lot lines.

- (76) Yard, side means a yard extending along a side lot line from the front yard to the rear yard.
- (77) Zoning Administrator means the Village President.
- (78) Additional definitions. Any definitions set forth in Chapter 236 of the Wisconsin Statutes are hereby adopted in inclusion herein by reference to the same force and virtue as if set forth herein in detail.

**8.07 DISTRICT ESTABLISHMENT, USE AND REGULATION**

The Village of North Bay is hereby designated and divided into two "Residence Districts", R-1 and R-2. The R-1 district consists of all lands lying west of North Main Street and each lot lying in this district shall have a minimum of .75 acres or 32,670 square feet unless presently occupied by a residence. The R-2 district consists of all lands lying east of North Main Street and each lot lying in this district shall have a minimum area of .5 acres or 21,780 square feet unless occupied by a residence.

- (1) Use. No building shall be erected, moved or structurally altered, and no building or premises shall be used except for one or more of the following uses:
  - (a) Permanent one-family dwellings and accessory buildings;
  - (b) Temporary sheds for construction and similar purposes;
  - (c) Municipal buildings;
  - (d) (Repealed by Ordinance 2015-02 on 06-08-15);
- (2) Regulations. No building or premises shall be used and no building or structure shall be erected, moved or altered or changed except in accordance with the requirements of this Chapter and the requirements of Chapter 10, including the procurement of a building permit.
  - (a) Advertising. No advertising sign of any character shall be permitted except for one unlighted sign not exceeding four square feet in area pertaining to the lease, hire or sale of the building or premises on which the sign is located.
  - (b) Residential Restrictions. No trailer, basement, tent, shack, garage, barn or other outbuilding, erected on the building site shall be used at any time as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No house being built shall be used as a residence until it has been finished to the extent that the concrete floor of the basement or the concrete slab of a basementless house has been poured and all the walls of all the living quarters shall have been lathed and plastered or the finished material of other construction erected, and the rooms to be used as kitchen and bathroom shall have been finished.
  - (c) Livestock. No livestock or other animals including chickens and excepting the usual household pets shall be kept or raised within the Village.
  - (d) Poles and Wires. No telephone or electric poles or wires shall be erected or maintained in that part of the Village which is constituted of the original North Bay Subdivision, except under easements as recorded in the office

of the Register of Deeds of Racine County on January 10, 1921, and January 17, 1921, Volume 180 at Page 569.

- (e) Snowmobiles. See 16.04(24) \*
  - (f) Accessory buildings. No accessory building may be located on any lot prior to the completion of the principal dwelling on such lot. No more than one accessory building is allowed on any lot. Accessory buildings shall not have a floor area greater than 144 square feet. Accessory buildings may not be taller than twelve feet, measured from ground to the highest point of the building, and, in any event, may not be taller than the lot's principal building. Notwithstanding any other provision of this Code to the contrary, accessory buildings may be constructed with a 5-foot side yard or rear yard setback, provided, however, that any accessory structure constructed within any public easement shall be conditioned upon the property owner executing an agreement, in a form acceptable to the Village, providing at least: (1) that the structure will be moved at the request of the Village and (2) that the Village shall have the right to remove, or, if necessary, destroy the accessory structure, without any recourse by or to the owner, if and as necessary to gain access to the easement area. Accessory buildings are allowed only in rear yards. Accessory buildings may be painted only the same color as the principal dwelling, or such other color as will tend to cause the accessory building to visually blend into the natural surroundings. In no event may an accessory building be used as a permanent or temporary dwelling, nor may an accessory building be used to store a car or truck, nor may an accessory building be used in connection with any commercial operation. A building permit is required for accessory structures. (Amended by Ordinance 2016-01 on 07-11-16).
  - (g) Parking and Storage of Vehicles (*Created 11.25.2019 and went into effect 1.13.2020*) Outdoor parking of vehicles shall be limited to residents' vehicles and to those of residents' temporary guests, and shall be on an all-weather hard surface (concrete, asphalt, or the like) except that vehicles may be parked on the residence's yard for not more than four hours in order to accommodate the temporary parking of guests' vehicles when there is inadequate street parking available. Residents' recreational and utility vehicles (including, but not limited to, RVs, campers, fifth-wheel campers, trailers, boats, all-terrain vehicles, jet skis, snowmobiles, tractors, etc.) may not be stored outside, provided however, that between April 1 and October 31, one recreational or utility vehicle may be stored in the rear yard at least 15 feet from all side and rear lot lines. Notwithstanding the above, and only with the prior notification to a Village trustee or the Village police department, a camper or recreational vehicle may be temporarily parked in a residence's driveway for up to 7 days while such vehicle is being loaded or unloaded."
- (3) Detached Garages. No new detached garages shall be constructed and/or placed on any property in the Village. Existing detached garages that are/were in existence at the time of the effective date of this particular ordinance may be kept,

maintained, repaired, and/or replaced by the property owner, but any such repaired or replaced garage shall (i) not exceed the presently-existing dimensions and/or have a different location or footprint than the original detached garage being so repaired or replaced, and (ii) shall first be approved by the Plan Commission and the Village Board under Section 8.10(4)(b) of the Village Code of Ordinances. Additionally, and notwithstanding the foregoing prohibition pertaining to new detached garages, any property in the Village that presently does not have any type of garage (whether attached and/or detached) may construct a new detached garage on the property if such a detached garage is first approved by the Plan Commission and the Village Board under Section 8.10(4)(b) of the Village Code of Ordinances. (Adopted by Ordinance No. 2007-02 on 10/3/07)

(4) *Created by Ordinance 2022-2*

To maintain the North Bay aesthetic, construction following the teardown of an existing house must emulate the previous structure. Specifically, the replacement house must replicate the exterior dimensions, i.e. height, length and width, location and orientation on the lot, setbacks, and square footage of the previous house. Building materials, insulation, windows, doors, plumbing, heating, air conditioning, and electrical systems of the new structure may be updated with approval of the planning commission.

Any variance of this standard must be approved by the planning commission.

### **8.08 NONCONFORMING STRUCTURES**

Except as provided in Wis. Stats. 62.23(7)(h) and 62.23(7)(hc), as may be amended from time to time, a nonconforming structure existing at the time of the adoption of this Ordinance may be continued; however, it shall not be extended, enlarged, reconstructed or structurally altered except when required by law or order so as to more closely comply with these Ordinances. It may not thereafter revert to a less conforming structure.

\*\* Subsection 16.07(24) was renumbered as subsection 16.04(24) via Ordinance 2014-01, dated 9-8-14.

### **8.09 SUBSTANDARD LOTS**

- (1) A substandard lot is one which (a) is smaller in size than required for one family dwelling purposes by the provisions of this Chapter or any amendment to it and (b) is a legal lot or parcel of record in the office of the County Register of Deeds prior to the effective date of this Chapter or applicable amendment to it.
- (2) Substandard lots shall be required to meet the setbacks and other yard requirements of this Ordinance. A Building Permit for the improvement of a lot with lesser dimensions and requisites than those set forth in Section 8.07 and Chapter 10 of this Ordinance shall be issued only after approval of a variance by the Board of Appeals upon recommendation of the Village Plan Commission.
- (3) If both an abutting lot or lands and a substandard lot are owned by the same owner on the effective date of this Chapter, or if an abutting lot or lands and a substandard lot becomes owned by the same owner subsequent to the effective



date of this Chapter, the substandard lot shall be combined with the abutting lot or lands into one parcel and shall not be sold or used without full compliance with the provisions of this Chapter. For the purposes of this section, lots and property shall be considered in the same ownership when owned by: the same individual, trust, corporation, limited liability company, or other business entity; an individual and other abutting lots are owned by his spouse; and when any of said lots are owned by an individual and other abutting lots are owned by a corporation in which said individual is a stockholder.

#### **8.10 RESIDENTIAL CONSERVATION OVERLAY DISTRICT ESTABLISHMENT, USES AND STANDARDS OF REVIEW**

For the purpose of this zoning ordinance, the following special overlay district is created: Residential Conservation Overlay District.

- (1) **Overlay.** The Residential Conservation Overlay District is a district which overlays the North Bay general zoning districts. The requirements of the overlay district shall override and supersede the requirements of the underlying general zoning districts.
- (2) **Overlay Boundaries.** The overlay district boundaries are hereby established as shown on the official Village of North Bay zoning map which is on file in the Village Clerk's office and which accompanies and is a part of this ordinance. Unless otherwise noted on the zoning map, such boundaries shall be construed to follow: corporate limits, lot or property lines and center lines of streets or easements or such lines extended.
- (3) **Intent.** It is intended that the residential conservation overlay district will enable and permit the preservation and protection of natural environmental conditions within the Village where such preservation or protection is considered to be beneficial to the public health, safety and welfare interests, while at the same time allowing the development of single family residences and their accessory uses when such development is carried out in a manner in compliance with the provisions of this Chapter and/or the provisions of the Village of North Bay Code of Ordinances.
- (4) **Uses.** In the Residential Conservation Overlay District, no parcel of land shall be used for any purpose except as follows:
  - (a) **Permitted Uses.** The following uses shall be permitted uses within the Residential Conservation Overlay District: existing single family residence, existing accessory structures and uses. The following additional uses may be permitted upon review by the Village Planning Commission and approval by the Village Board: flood control measures, establishment and development of parks and recreation areas, landscaping or relandscaping of a single family dwelling lot, soil and water conservation practices, stream bank and lakeshore protection and water retention and/or detention ponds.\
  - (b) **Conditional Uses.** The following uses shall be conditional uses, allowable only after public hearing before the Village Planning Commission and approval by the Village Board: modification and/or alteration of existing, or

the development of new, single family residences and their related accessory structures or uses, creation of new drainage ways, dredging, draining, filling, flooding, excavating, ditching, dumping, tiling, mineral or soil removal or any other activity that would disturb, impede, obstruct or impair the existing lands, terrain, fauna, flora, water courses, or existing topography within the Residential Conservation Overlay District. Any such uses shall be upon such terms, requirements and conditions as the Village Board shall designate so as to preserve the natural environment, existing topography and natural beauty of the Village.

- (c) Prohibited Uses. All other uses not listed as permitted or conditional uses are prohibited within the Residential Conservation Overlay District. Additionally, all permitted uses and/or conditional uses shall only affect and/or be located entirely in and on the land owned by the property owner exercising the permitted use and/or conditional use, unless otherwise approved by the Village Board.
- (5) Conditional Use Permit. Conditional uses and their accessory uses are considered as special uses requiring review, and a public hearing before the Village Planning Commission, and approval by the Village Board. The Village Board may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing before the Village Planning Commission, provided that such conditional uses and related structures are (i) in compliance with the provisions of this Chapter and/or the provisions of the Village of North Bay Code of Ordinances, and (ii) in accordance with the purposes and intent of this Ordinance, and (iii) are found not to be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover or property values in the Village.
- (6) Application. Applications for conditional use permits shall be submitted in writing to the Zoning Administrator and shall include the following where applicable:
  - (a) Names and Addresses of applicant, owner of the site, architect, professional engineer, and contractor.
  - (b) Description of the Subject Site by lot, block and recorded subdivision or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees if any.
  - (c) Plat of Survey prepared by a registered land surveyor showing the locations, boundaries, dimensions, elevations, uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, and driveways; existing highways access restrictions; existing and proposed street, side, rear, and shore yards; the location, yard grade (elevation), and uses of any abutting lands and their structures within 40 feet of the subject site; and the location of the high-water elevation. In addition, when the subject site contains floodlands, the permit application shall show the limits of the floodland, the lowest floor elevation (basement) of any proposed structure, the first floor elevation of the

proposed structure, and the yard grade (elevation); and the first floor elevation and yard grade surrounding any abutting structure within 40 feet of the subject site.

- (d) Additional Information as may be required by the Village Clerk, Building Inspector, Zoning Administrator, the Village Planning Commission or Village Board.

(7) *Repealed and recreated by Ordinance 2022-2 on 5.23.2022*

Review and Approval. The Village Planning Commission shall review the application for a Conditional Use Permit and hold a public hearing upon class 2 notice as required by Wisconsin Statutes Section 62.23(7)(de)3 jointly with the Village Board. The Village Planning Commission shall then consider and vote to recommend the grant or denial of the Conditional Use Permit application. The recommendation shall be made based upon the applicable standards of the ordinance by substantial evidence presented at the hearing, as required by Wisconsin Statutes Section 62.23(7)(de)3. The Planning Commission shall then forward that recommendation to the Village Board. The Village Board shall make the final determination in the manner required by Wisconsin Statutes Section 62.23(7)(de)3.

- (a) Conditions such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, location, water supply and waste disposal system, street dedication, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational controls, roadway access restrictions, increased yards, stream crossings or culverts may be considered by the Village Planning Commission, along with any and all other relevant matters, when reviewing, considering, and voting upon the application for a Conditional Use Permit.

The standard conditions listed below are automatically incorporated into the terms of a Conditional Use Permit issued under this section, unless otherwise stated in the Conditional Use Permit.

1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Village Plan Commission for determination.
2. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Racine, the State of Wisconsin, the United States of America or other duly constituted

authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.

3. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Village Plan Commission as being in compliance with all pertinent ordinances.
4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
5. The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections by Village and Fire Department staff
6. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Village Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order, and all applicable ordinances.
7. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
8. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Village Plan Commission if the Village Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village Plan Commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
9. Petitioner and Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit

upon the terms and conditions described herein in writing, and the Petitioner is required to accept the terms and conditions of the same in its entirety in writing.

10. Professional fees. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
11. Payment of charges. Any unpaid bills owed to the Village by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Village, pursuant to section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.
12. Current Address. The Petitioner is obligated to file with the Village Clerk a current mailing address and current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this conditional use. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
13. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the Petitioner's application, as noted in the Minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
14. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
15. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect

of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Village Plan Commission.

- (b) Subject to all other requirements of this Chapter, excavating and filling for the siting of a new single family residence or an addition to an existing single family residence shall be allowed provided that such activities are limited to that area actually needed to site the structure on the lot and further provided that such activities be conducted so as to prevent erosion and sedimentation and preserve the natural beauty of the Village.
- (c) With respect to conditional uses within shorelands, the standards set forth in Section 281.31(5)(a) of the Wisconsin Statutes, in particular as they relate to the avoidance or control of pollution, shall apply. Page 8-20 Printed 2.8.2020
- (d) Performance Standards
  1. It is the intent of this Section to describe performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air and water shall hereafter comply with the following performance standards.
  2. Control of Odors. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.
  3. Control of Fire and Explosive Hazards
    - a. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.
    - b. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire

- extinguishing system.
- c. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Village Fire Department and in accord with their requirements to minimize fire and explosive hazards.
4. Glare, Heat and External Lighting
    - a. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
    - b. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.
  5. Water Quality Standards
    - a. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
    - b. No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.
  6. Noise. No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.
  7. Vibration
    - a. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

- b. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.
8. Traffic Impact. The Plan Commission reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:
- a. Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
  - b. Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
  - c. Manual on Uniform Traffic Control Devices (Federal Highway Administration)
  - d. Trip Generation Manual (Institute of Transportation Engineers)
  - e. Other local, county or state standards

(8) *Repealed and recreated by Ordinance 2022-2 on 5.23.2022*

Village Board Action. Following a public hearing held jointly with the Village Planning Commission, and after careful consideration of the Village Planning Commission's recommendation, the Village Board may grant the Conditional Use Permit as applied for, grant the Conditional Use Permit with conditions deemed appropriate by the Board, or deny the permit, based upon whether the standards of the ordinance have been met as demonstrated by substantial evidence at the hearing. The requirements of Section 62.23(7)(de) Wisconsin Statutes shall apply. The provisions of any Conditional Use Permit granted by the Village Board shall comply with all of the provisions of this Chapter and the Village of North Bay Code of Ordinances.

- (9) As-Built Survey Required. The holder of a Conditional Use Permit for any conditional use involving soil disruption shall submit to the Building Inspector/Zoning Administrator an as-built survey of the affected property or site upon completion of construction. The Building Inspector/Zoning Administrator may waive the requirement of an as-built survey if satisfied that all terms of the Conditional Use Permit and requirements of this Ordinance have been met.



## 8.11 VARIANCES

- (1) Purpose. The Board of Appeals, after a public hearing, may vary the regulations of this Chapter in harmony with their general purpose and intent, only in the specific instances set forth in this Subsection 8.11, where such Board makes findings of fact in accordance with the standards prescribed in this Subsection 8.11, and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of this regulations of the Chapter and/or other applicable provisions of the Village of North Bay Code of Ordinances.
- (2) Application; notice of hearing. Application for a variance shall be filed with the Village Zoning Administrator. The application shall contain such information as is required by the Board of Appeals. Notice of hearing on such application shall be published once in a newspaper having general circulation in the Village, or posted as allowed by law, not more than Fifteen (15) days nor less than Seven (7) days before the date of hearing. Notices shall also be mailed to owners of all property within 200 feet of the subject site. The board shall reach its decision within 45 days of the date of hearing. (Code 1972, & 16.03.080(b)) (Amended by Ord. 2016-01 on 07-11-2016).
- (3) Standards for variances
  - (a) The Board of Appeals shall not vary the regulations of this chapter unless it shall make finding based upon the evidence presented to it in each specific case that:
    - (i) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
    - (ii) The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;
    - (iii) The purpose of the variance is not based exclusively upon a desire to increase financial gain;
    - (iv) The alleged difficulty or hardship is caused by the provisions of this Chapter and has not been created by any person(s) presently having an interest in the property;
    - (v) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
    - (vi) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or diminish or impair property values within the neighborhood.

- (b) The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section and the objectives of this chapter.
- (4) Revocation. Where a variance has been granted pursuant to the provisions of this chapter, such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Appeals.
- (5) Reserved
- (6) Scope of Appeals. An appeal may be taken to the Board of Appeals by any person, or by any office, department, board or bureau, aggrieved by a decision of the Zoning Administrator. Such appeal shall be taken not later than Ten (10) days after the decision or the action complained of, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting a record upon which the action appealed from was taken.
- (7) Findings on appeals. An appeal shall stay all enforcement proceedings of the Village in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after the notice of the appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and/or property, in which case the said enforcement proceedings shall not be stayed unless otherwise directed by a court having jurisdiction in the matter.
- (8) Notice of hearing. A notice of hearing shall be published once in a newspaper of general circulation in the Village, not more than Fifteen (15) days nor less than Seven (7) days before the date of hearing. Notices shall also be mailed to owners of all property within 200 feet of the subject site. The Board of Appeals shall reach its decision within Forty-five (45) days of the date of hearing.
- (9) Disposition of appeals. The Board of Appeals may affirm or may reverse, wholly or in part, or modify, the order, requirement, decision or determination of the Zoning Administrator and, to that end, shall have all the powers of the officer from whom the appeal is taken. The Zoning Administrator shall maintain records of all actions of the board relative to the appeals.

## **8.12 VIOLATION AND PENALTY**

- (1) Who May Act. It shall be unlawful to construct or use any structure, land or water in violation of the provisions of this Chapter and/or the Village of North Bay Code of Ordinances. In case of any such violation, the Building Inspector, Zoning Administrator, Director of Public Works, the Village Board of Trustees, the Village Planning Commission or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin the violation.
- (2) Penalty. Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 19.04 of this Code. A separate offense shall be deemed committed on each day on which violation occurs or continues.

### **8.13 BOARD OF APPEALS**

- (1) The members of the Board of Appeals are as follows:
  - (a) Chairperson
  - (b) Vice Chairperson
  - (c) 3 Regular Members
  - (d) 2 Alternates
  - (e) The Village Clerk who shall serve as the Secretary and be a non-voting member of the Board of Appeals.
- (2) A petitioner shall fill out a Notice of Appeal form obtained from the Village Clerk for an action appealed to the Board of Appeals. Such application shall identify the person or governing body who denied the approval. The application must contain a copy of the application for permit or other action requested and, those involving building or construction plans, a copy of the plans and certified survey for building permit or zoning shall also be submitted. The Notice of Appeal shall be filed by the petitioner with the Village Clerk no later than Thirty (30) Days after the date of the decision being appealed.
- (3) The denying governmental entity or employee shall give a written statement to the Board of Appeals with the reason for denial within 10 working days from the notification of appeal received from the Board of Appeals.
- (4) A public hearing shall be held before the Board of Appeals within Fifteen (15) days after all written statements are received. The Board of Appeals may issue subpoenas for attendance of witnesses.
- (5) If any witnesses are compelled to attend the hearing by the Board of Appeals, Five (5) days written notice shall be given to such witnesses.
- (6) If the Chairperson of the Board of Appeals feels that legal or professional experts should be present for the hearing, he may request the Village Board to provide such legal or professional experts and the Village Board shall then grant that request, at the Village's cost and expense.
- (7) All property owners within 200 feet of the property lines of the subject property shall be notified by mailing a notice of public hearing.
- (8) No board member of the Board of Appeals shall participate as a board member on a matter if it is determined by the Chairperson that to do so would be a conflict of interest. The Chairperson's decision can be overridden by a unanimous vote of the other members of the Board of Appeals excluding the party on the Board alleged to have a conflict of interest and the Chairperson.
- (9) The Board of Appeals shall enter a written decision specifying in detail the reasons for the granting or denial of the appeal. All interested parties shall be notified in writing of the decision.
- (10) With any request for a variance which is appealed to the Board of Appeals involving an issue of location or construction of a building beyond the normal ordinance set-back lines a certified survey shall accompany the appeal showing the existing set-back and the location of any structures proposed for variance.

- (11) An administrative fee of \$100.00 shall accompany the Notice of Appeal. However, the Board of Appeals may waive the fee if it is determined to be in the interest of justice.
- (12) Once the Board of Appeals has entered its decision on any matter reviewed on appeal the same matter shall not be submitted to the Board of Appeals for review and no review shall take place on the same subject matter for a period of Twelve (12) months. This section shall not apply if there is a change, alteration or modification in a proposal subsequently denied and appealed.
- (13) The provisions of Wis. Stats. 62.23(7)(E) 1 through 15 (as the same may be amended from time to time and/or renumbered) are hereby incorporated in this ordinance by reference.
- (14) Village of North Bay shall provide liability insurance coverage for members of the Board of Appeals acting in their official capacity as such members.

#### **8.14 FENCES**

- (1) Declaration of Policy.
  - (a) The intent of this ordinance is to establish standards for the location and design characteristics of and permits for fences within the Village of North Bay.
  - (b) The intent of this ordinance is also to provide a policy as to fences currently located within public drainage, sanitary sewer or water easements or public rights-of-way within the Village of North Bay.
- (2) Definitions.
  - (a) Fence. A fence is an artificial structure of posts and boards, wire, pickets, panels, rails or similar materials that is used as an enclosure of land. For purposes of this chapter, a fence shall not include vegetation, nor shall it include a retaining wall that retains or supports earth. Additionally, a fence shall not include a temporary snow fence that is installed and removed within the months of November through April, nor shall it include any temporary fence required by law, nor shall it include any “invisible fence” which is comprised entirely of buried wiring and which is designed to contain pets.
  - (b) Primary frontage. The primary frontage is a boundary of a lot bordering a public right-of-way. If a lot borders more than one public right-of-way, the primary frontage is the boundary of a lot bordering a public road right-of-way geographically situated in relation to and most convenient to the main entrance of the building.
  - (c) Front yard. The front yard of a residential property is the portion of a lot between the front of the residence and public road right-of-way bordering the primary frontage located between the side-yard property lines.
  - (d) Front of the residence. The front of the residence is any portion of the residence, including attached garages but not including architectural appurtenances, facing the primary frontage.

- (e) Good side. The good side of the fence is the side of the fence that by virtue of design and appearance would generally be considered as the most aesthetically pleasing side of the fence.
  - (f) District. Any sanitary district or utility district operating in the Village of North Bay.
- (3) Design
- (a) Height.
    - (i) No fence shall exceed eight (8) feet in height above ground level, as installed.
    - (ii) A supporting fence post that is set into the ground may not exceed 8 feet, 6 inches (8'6") in height above ground level, as installed.
    - (iii) In no event shall any provision of this chapter be construed to permit a spite fence in violation of Section 844.10, Wisconsin Statutes.
  - (b) Prohibited Materials. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, razor wire, electrified wire, or any wire fabric within the Village.
  - (c) Maintenance. A fence shall be maintained by the property owner in a structurally adequate condition. Posts, supports, rails, boards, panels, etc. shall be repaired or replaced as reasonably required toward that purpose.
  - (d) Aesthetics.
    - (i) The good side of a fence shall face toward the adjoining property and toward the public road right-of-way if any portion of a fence extending along the public road is within fifty (50) feet of the public road right-of-way.
    - (ii) The Building Inspector shall determine which side of a fence is the good side and shall provide property owners with his determination upon request. The Building Inspector may require the property owner to provide sufficient evidence to make said determination. The determination of the Building Inspector may be appealed to the Village Board, whose determination shall be final.
- (4) Location
- (a) A fence may be located within street, side, rear, and shore yard setbacks as permitted by applicable zoning ordinances, unless otherwise prohibited or restricted herein or unless prohibited, restricted or allowed by a Conditional Use Permit/Site Plan Review or variance.
  - (b) A fence may not be located within a public drainage, sanitary sewer, electrical, cable television or water easement or within a public right-of-way unless authorized elsewhere in this chapter. Any fence located in an easement area that must be removed so as to facilitate utility access or repair shall be removed at the fence owner's expense, without recourse to the Village or utility.
- (5) Permits

- (a) No person shall install or construct or cause to be installed or constructed a fence within the Village of North Bay without first obtaining a permit therefor from the Building Inspector as herein provided.
- (b) Any person desiring a permit for the installation or construction of a fence within the Village of North Bay shall file a written application form provided by the Village with the Building Inspector.
- (c) A permit fee in an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of North Bay shall be paid at the time of the filing of the application for a permit hereunder.
- (d) A permit issued pursuant to this chapter shall be valid and permit construction of the fence for a period of one (1) year from date of issuance. If the fence is not completed within such period, a new permit shall be required.
- (e) The Building Inspector or his representative shall have a right to enter upon the premises to inspect the fence and its construction to insure compliance with the permit and the provisions of this chapter.
- (f) As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold the Village of North Bay harmless from and against all claims, including boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.

6. Prohibited Locations.

- (a) No fence may be located within a front yard.
- (b) Fences located within a public right-of-way shall not be permitted and shall be removed.
- (c) A fence currently located within a public drainage, sanitary sewer, electrical, cable television or water easement in the Village of North Bay shall be permitted to remain unless in the opinion of the Building Inspector the fence is determined to obstruct the purpose for which the easement was obtained or the maintenance of the easement, including underground lines. If the easement is under the jurisdiction of a District, the Building Inspector shall consult with such District in rendering an opinion under this subsection. The determination of the Building Inspector as to the existence of an obstruction may be appealed as set forth below.
- (d) Any fence that is required to be removed and is removed, either by the owner or the Village, because of a violation of this Chapter, may be replaced at the cost of the owner if in the opinion of the Building Inspector the fence could not obstruct the purpose for which the public drainage, sanitary sewer, electrical, cable television or water easement was obtained or the maintenance related to such easement; provided that the owner shall agree to be responsible for the removal of the fence in the event of future interference with the purpose for which the easement was obtained or the operation or maintenance of the easement including

underground lines; and provided that a permit is applied for and issued as provided in this chapter.

- (e) The Building Inspector may order any fence located within the Village of North Bay contrary to the provisions of this chapter to be removed, repaired or otherwise corrected, as the case may be. Such notice shall be in writing and delivered to the last known owner of the property where the fence is located, either delivered in person or by first-class mail addressed to the last known address of the owner, directing the work or action which is required to be taken. The work or action shall be completed within thirty (30) days after receipt of the notice in the case of personal delivery or after the mailing of the notice in the case of mailing. Upon written request of the Owner, and for good cause shown, the Village Board may extend the time for compliance with the order provided the property owner waives any appeal rights set forth below.
- (f) Any person shall have a right to request a review of the determination of the Building Inspector under this chapter or an order issued hereunder by filing a request for review with the Village Board. Failure to comply with the notice of required action shall permit the Village of North Bay to enter upon the premises and complete such action, and any cost to the Village of North Bay shall be charged as a special charge against the property as provided in Section 66.0627, Wisconsin Statutes.
- (g) Fences existing in any residential district prior to the effective date of this chapter which do not meet the regulations of this chapter are permitted to be:
  - (i) Repaired for ordinary maintenance, including painting, staining, and cleaning. No permit shall be required for such work.
  - (ii) Replaced; provided, however, that a permit is obtained for the construction of the replacement fence. No permit fee shall be required for a permit for a replacement fence.
- (h) As an exception to any notice requirements set forth above, the Village President may order the emergency removal of a fence, or a portion thereof, where there is an immediate danger to persons or property, or a significant maintenance concern. This determination shall be made by the Village President, upon the recommendation of the Building Inspector.

### **8.15 AMENDMENTS**

The provisions of this Chapter may only be changed following a public hearing, preceded by a Class 2 notice, after a recommendation of the Planning Commission, and after notification to neighboring municipalities, as necessary, pursuant to the procedure, and subject to the protest provisions, set forth in WI Stats. 62.23(7)(d).