

threaten or degrade groundwater quality. The purpose of this WHP District is to institute land use regulations and restrictions to protect the Village's municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the Village of Bangor.

- (2) **Statutory Authority.** The Wisconsin Legislature authorizes villages to enact these regulations pursuant to Secs. 62.23(7)(a) and (c), and 61.35, Wis. Stats. Under these statutes, the Village has the authority to enact this Section, effective in the incorporated areas of the Village of Bangor, to encourage the protection of groundwater resources.
 - (3) **Applicability.** The regulations specified in this WHP District shall apply within the Village's corporate limits.
- (c) **Definitions.** As applicable in this Section:
- (1) **Aquifer.** A saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.
 - (2) **Existing Facilities.** Current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the Village's wellhead protection area that lies within the corporate limits of the Village. Existing facilities include, but are not limited to, the type listed in the Wisconsin Department of Natural Resources' Form 3300-215, *Public Water Supply Potential Contaminant Use Inventory Form*, which is incorporated herein as if fully set forth.
 - (3) **Wellhead Protection Management Area.** The land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well. This area extends beyond the corporate limits of the Village of Bangor. This area is indicated as the combined area of Zones 1, 2 and 3 on the map attached as Exhibit A, on file with the Village Administrator, and incorporated herein by reference.
 - (4) **Groundwater Protection Overlay District.** That portion of the recharge area for the Village wells that lies within the Village limits as of the date of passage of this Section. As of the date of passage, this area is indicated as the combined Zones 1 and 2 on the map attached hereto as Exhibit A, on file with the Village Administrator, and incorporated herein by reference. This area may be expanded as additional property is annexed into the Village of Bangor.
 - (5) **Well Field.** A piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.
 - (6) **Regulated Substance.** Chemicals and chemical mixtures that are health hazards. Health hazards for chemicals and chemical mixtures are typically identified on Material Safety Data Sheets (MSDS) available from the substance manufacturer or supplier. Substances packaged for consumption for humans or animals are not considered regulated substances. "Regulated substances" include, but are not limited to:

- a. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, irritants, corrosives, sensitizers, hepatotoxins, agents that act on the hematopoietic system, reproductive toxins, and agents which damage the lungs, skin, eyes, or mucous membranes as defined in 29 CFR 1910.1200, Appendix A, "Health Hazard Definitions (Mandatory)".
 - b. Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
 - c. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and comprises one (1.0) percent or greater of the composition on weight per unit weight basis.
 - d. Mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one-tenth of one percent (0.1%) or greater of the composition on a weight per unit weight basis.
 - e. Ingredients of mixtures prepared within the Groundwater Protection Overlay District in cases where such ingredients are health hazards but comprise more than one-tenth of one percent (0.1%) of the mixture on a weight per unit weight basis if carcinogenic, or more than one percent (1.0%) of the mixture on a weight per unit weight basis if non-carcinogenic,
 - f. Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids used in equipment or for transmission of electric power to homes and businesses).
- (d) **Groundwater Protection Zone Separation Distances.** The following minimum separation distances as specified in NR 811.16(4)(d), Wis. Adm. Code, shall be maintained within the Groundwater Protection Overlay District:
- (1) A separation distance of five hundred (500) feet as documented in the current Wellhead Protection Plan shall be maintained around all wells.
 - (2) Fifty (50) feet between a well and stormwater sewer main.
 - (3) Two hundred (200) feet between a well and any sanitary sewer main, lift station or single-family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) 600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than fifty (50) feet.
 - (4) Four hundred (400) feet between a well and a septic tank or soil absorption unit receiving less than eight thousand (8,000) gallons per day, a cemetery or a stormwater drainage pond.
 - (5) Six hundred (600) feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Safety and Professional Services or its designated agent under SPS 10.10, Wis. Adm. Code.

- (6) One thousand (1,000) feet between a well and land application of municipal, commercial or industrial, commercial or municipal waste; industrial, commercial or municipal wastewater lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil absorption units receiving eight thousand (8,000) gallons per day or more.
 - (7) Twelve hundred (1,200) feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from the Wisconsin Department of Safety and Professional Services or its designated agent under SPS 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.
- (e) **Overlay District Zones.** The Overlay District is hereby into Zones 1, 2 and 3:
- (1) **Zone 1.** Identified as the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contamination to the municipal wells. Zone 1 is comprised of a circle with a diameter of two thousand four hundred (2,400) feet with the municipal well at its center. Zone 1 is more restrictive than Zones 2 or 3:
 - a. **Permitted Uses — Zone 1.** The following uses are permitted uses within the Groundwater Protection Zone 1:
 1. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
 2. Playgrounds.
 3. Wildlife areas.
 4. Non-motorized trails, such as bike, skiing, nature and fitness trails.
 5. Residential property which is municipally sewered, and free of Regulated Substances, above ground or underground storage tanks (USTs).
 6. Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
 7. Level 1 and Level 2 chargers are permitted accessory uses in all zoning districts. Level 3 chargers are a permitted accessory use in commercial and industrial districts. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles only. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle. EV charging spaces count towards minimum parking requirements.
 - b. **Prohibited Uses — Zone 1.** The following uses are prohibited uses within the Groundwater Protection Zone 1. These uses are prohibited based on the high probability that activities routinely associated with these uses (storage, use and handling of potential pollutants) will cause groundwater contamination. Uses not listed shall not be considered permitted uses:

1. Underground storage tanks of any size.
 2. Septage and/or sludge spreading.
 3. Animal waste landspreading.
 4. Animal confinement facilities.
 5. Animal confinement facilities.
 6. Gas stations.
 7. Vehicle repair establishments, including auto body repair.
 8. Printing and duplicating businesses.
 9. Any manufacturing or industrial businesses.
 10. Bus or truck terminals.
 11. Repair shops.
 12. Landfills or waste disposal facilities.
 13. Wastewater treatment facilities.
 14. Spray wastewater facilities.
 15. Junk yards or auto salvage yards.
 16. Bulk fertilizer and/or pesticide facilities.
 17. Asphalt products manufacturing.
 18. Dry cleaning businesses.
 19. Salt storage.
 20. Electroplating facilities.
 21. Exterminating businesses.
 22. Paint and coating manufacturing.
 23. Hazardous and/or toxic materials storage.
 24. Hazardous and/or toxic waste facilities.
 25. Radioactive waste facilities.
 26. Recycling facilities.
 27. Cemeteries.
- c. ***Pre-Existing Prohibited Uses — Zone 1.*** Where any of the uses listed above exist within Groundwater Protection Zone 1 on the original effective date of this Section, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved by the Plan Commission and Village Board, and an appropriate permit must be issued by the Village Administrator prior to beginning any work. Expansion of the prohibited use will not be allowed.
- (2) ***Zone 2.*** Identified as a secondary source of water for the municipal wells because of its location in the Wellhead Protection Management Area and its location in the area identified as the five-year-time-of-travel area — meaning that area within which contamination would reach the Village well within a period of five (5) years. Zone 2 is less restrictive than Zone 1, but more restrictive than Zone 3:
- a. ***Permitted Uses — Zone 2.*** The following uses are permitted uses within the Groundwater Protection Zone 2.

1. All uses listed as permitted uses in Zone 1.
 2. Modified agricultural activities, including any crop free of pesticides and/or synthetic fertilizers.
 3. Above-ground petroleum product storage tanks less than six hundred sixty (660) gallons. All new or replaced tanks shall be installed in compliance with SPS 10, Wis. Adm. Code.
 4. Residential, commercial and industrial property which is municipally sewerred.
 5. Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
- b. ***Prohibited Uses — Zone 2.*** The following uses are prohibited uses within Groundwater Protection Zone 2. These uses are prohibited based on the high probability that activities routinely associated with these uses (storage, use, and handling of potential pollutants) will cause groundwater contamination. Uses not listed shall not be considered permitted uses unless specifically listed above under "Permitted Uses."
1. Underground storage tanks of any size.
 2. Unsewered commercial and/or industrial development.
 3. Septage and/or sludge spreading.
 4. Animal waste facilities.
 5. Animal confinement facilities (except veterinary hospitals and clinics).
 6. Gas stations and oil change businesses.
 7. Printing and duplicating businesses which use hazardous chemicals as defined by the EPA in their printing process.
 8. Bus or truck terminals.
 9. Landfills.
 10. Wastewater treatment facilities.
 11. Spray wastewater facilities.
 12. Auto salvage yards.
 13. Bulk fertilizer and/or pesticide facilities.
 14. Asphalt products manufacturing.
 15. Dry cleaning facilities.
 16. Electroplating facilities.
 17. Exterminating shops.
 18. Paint and coating manufacturing.
 19. Hazardous and/or toxic materials storage.
 20. Hazardous and/or toxic waste facilities.
 21. Radioactive waste facilities.
- c. ***Pre-Existing Prohibited Uses — Zone 2.*** Where any of the uses listed above exist within Groundwater Protection Zone 2 on the original effective date of this

Section, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved by the Plan Commission and Village Board, and appropriate permit issued by the Village Administrator prior to beginning any work. Expansion of the prohibited use will not be allowed.

- (3) **Zone 3.** Identified as that portion of the Wellhead Protection Management Area which excludes those areas within Zone 1 and Zone 2:
 - a. **Permitted Uses — Zone 3.** All uses listed as permitted in Zone 1 and Zone 2. Individuals and/or facilities may make a request to the Village Board to permit additional land uses in Zone 3.
 - (4) **Mapping.** The location and boundaries of the zoning districts established by this Chapter are set forth on the attached Exhibit "A", on file with the Village Administrator, which is incorporated herein and hereby made a part of this Chapter by reference. This map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Chapter as though fully set forth and described herein.
- (f) **Review of Permit Application.**
- (1) **Review of Applications.** The Village of Bangor Plan Commission shall review all requests for approval of permits for land uses in the Groundwater Protection Overlay District and make recommendations thereon to the Village Board. All determinations shall be made by the Village Board within sixty (60) days of any request for approval, provided however, that this sixty (60) day period of limitation may be extended by the Village Board for "good cause", as determined in its sole and absolute discretion.
 - (2) **Review Factors.** Upon reviewing all requests for approval, the Plan Commission and Village Board shall consider all of the following factors:
 - a. The Village's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.
 - b. The degree to which the proposed land use practice, activity or facility may seriously threaten or degrade groundwater quality in the Village of Bangor or the Village's recharge area.
 - c. The economic hardship which may be faced by the landowner if the application is denied.
 - d. The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
 - e. The proximity of the applicant's property to other potential sources of contamination.
 - f. The then-existing condition of the Village's groundwater public water wells and well fields, and the vulnerability to further contamination.
 - g. The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow,

including topography, depth of soil, extent of aquifer, depth to water table and location of private wells.

- h. Any other hydrogeological data or information which is available from any public or private agency or organization.
- i. The potential benefit, both economic and social, from the approval of the applicant's request for a permit.

(3) **Exemptions; Conditional Use Requirement.** Any exemptions granted will require a conditional use permit which may include environmental and/or safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs. The Village Board may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.

(4) **Applicant's Responsibility for Costs.** The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:

- a. The cost of an environmental impact study if so required by the Village of Bangor or its designee.
- b. The cost of groundwater monitoring or groundwater wells if required by the Village of Bangor or its designee.
- c. The costs of an appraisal for the property or other property evaluation expense if required by the Village of Bangor or its designee.
- d. The costs of Village employee's time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the Village, representing the Village's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.
- e. The cost of Village equipment employed.
- f. The cost of mileage reimbursed to Village of Bangor employees.

(g) **Requirements for Existing Facilities and Land Uses.**

- (1) **Certifications.** Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Village of Bangor.
- (2) **Monitoring.** Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Village of Bangor, specifically including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.
- (3) **Equipment Replacement.** Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
- (4) **Emergency Contingency Plans.** Existing facilities shall have the responsibility of devising and/or filing with the Village of Bangor, a contingency plan satisfactory to

the Village Board for the immediate notification of the appropriate Village of Bangor for the immediate notification of the appropriate Village of Bangor officers in the event of an emergency.

- (5) **Existing Agricultural Uses.** Property owners with an existing agricultural use shall be exempt from requirements of this Section as they relate to restrictions on agricultural uses, provided, however, that such exemption shall only apply to the property owners in existence at the time of original passage of the Section and this exemption shall not constitute a covenant running with the land.

(h) **Enforcement and Penalties.**

- (1) **Cease and Desist; Cleanup.** In the event an individual and/or facility causes the release of any contaminants which endanger the Groundwater Protection Overlay District, the individual/facility causing such release shall immediately cease and desist, and provide cleanup satisfactory to the Village of Bangor.
- (2) **Cleanup Costs.** The individual/facility shall be responsible for all costs of cleanup and any Village of Bangor consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:
 - a. The cost of Village employee's time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village, representing the Village's cost for expenses, benefits insurance, sick leave, holidays, overtime, vacation, and similar benefits.
 - b. The cost of Village equipment employed.
 - c. The cost of mileage reimbursed to Village employees attributed to the cleanup.
 - d. Village consultant fees at invoice, plus administrative costs for oversight, reviews and recommendations.
- (3) **Additional Monitoring.** Following any such discharge, the Village may require additional test monitoring or other requirements as outlined in Subsection (g) herein.
- (4) **Violations.** It shall be unlawful to construct or use any structure, land or water in violation of this Section. Any person who is specifically damaged by such violations may institute appropriate action or proceeding to enjoin a violation of this Section.
- (5) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, be subject to the enforcement and penalties provisions of Section 1-1-6.

Sec. 13-1-58 AEO Adult Entertainment Overlay District.

(a) **Authority.**

- (1) The Village Board has authority, to be liberally construed in favor of the Village of Bangor, under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and

- (2) The Village Board recognizes it lacks authority to regulate obscenity under Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
- (3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
- (4) The Village Board recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
- (5) However, the Village Board is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Bangor; and
- (6) Among these secondary effects are:
 - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - b. The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;
 - c. Health risks associated with the spread of sexually transmitted diseases; and
 - d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
- (7) 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 of Bangor; protect the 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; and
- (8) The Village Board has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the Village while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.

- (b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Village so as not to suppress their existence.
- (c) **Definitions.** For purposes of this District, the following definitions shall be applicable:
- (1) **Adult Establishments.** Includes adult-oriented bookstores, motion picture theaters, mini-motion picture theaters, adult bath houses, massage parlors, modeling studios, body painting studios, cabarets, and video stores and more specifically defined as:
- a. **Adult Bookstore.** An establishment as described in this Section.
 - b. **Adult Motion Picture Theater.** An enclosed building or outdoor theater as described in this Section.
 - c. **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein.
 - d. **Adult Bath Houses.** An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities" as defined in this Section.
 - e. **Adult Massage Parlors.** An establishment or business with or without sleeping accommodations which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in "specified sexual activities" as defined in this Section.
 - f. **Adult Modeling Studios.** An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise.
 - g. **Adult Body Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Section, the adult body painting studio shall not be deemed to include a tattoo parlor.
 - h. **Adult Cabaret.** An establishment or business which features male and/or female topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, burlesque shows, male or female impersonators, or similar entertainers.

- i. **Adult Novelty Shop.** An establishment or business having as a substantial or significant portion of its stock-in-trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for "specified sexual activities" as defined herein or stimulating such activity.
 - j. **Adult Video Store.** An establishment having as a substantial or significant portion of its stock and trade in videotapes, CDs, DVDs or similar such electronic media for sale or rent which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined herein or an establishment with a segment or section devoted to the sale, display or rental of such material.
- (2) **Adult Bookstore.** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
- (3) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
- (4) **Adult Motion Picture Theater.** Any establishment for the presentation of motion pictures that 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 for observations by patrons therein.
- (5) **Adult Novelty Store.** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
- (6) **Specified Anatomical Areas.** Means either:
- a. Less than completely and opaquely covered human genitals pubic region.
 - b. Human male genitals in a discernible turgid state, even if opaquely covered.
 - c. Less than completely and opaquely covered nipples or areolas of the human female breast.
- (7) **Specified Sexual Activities.** Means simulated or actual:
- a. Showing of human genitals in a state of sexual stimulation or arousal;
 - b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;

- c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts;
 - d. Flagellation or torture in the context of a sexual relationship;
 - e. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
 - f. Erotic touching, fondling or other such contact with an animal by a human being; or
 - g. Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in Subsections (c)(7)a-f above.
- (8) **Substantial.** Forty percent (40%) or more of business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the Village upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.
- (d) **Permitted Uses.**
- (1) No principal uses shall be permitted as a matter of right in the AEO Adult Entertainment Overlay District. All uses shall be conditional uses.
 - (2) Level 1 and Level 2 chargers are permitted accessory uses in all zoning districts. Level 3 chargers are a permitted accessory use in commercial and industrial districts. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles only. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle. EV charging spaces count towards minimum parking requirements.
- (e) **Conditional Uses.** The following are conditional uses in the AEO Overlay District:
- (1) Adult bath houses.
 - (2) Adult body painting studios.
 - (3) Adult bookstores.
 - (4) Adult cabarets.
 - (5) Adult entertainment centers.
 - (6) Adult massage parlors.
 - (7) Adult mini-motion picture studios.
 - (8) Adult modeling studios.
 - (9) Adult motion picture theaters.
 - (10) Adult novelty shops.
 - (11) Adult video stores.
- (f) **Underlying District Standards.** Lot area and width, building height and area, yard and sanitary sewer system requirements in the underlying district shall be complied with in the AEO Adult Entertainment Overlay District.
- (g) **Procedures for Establishing Adult Entertainment District.**
- (1) A petition to amend the Zoning Code to establish an AEO Adult Entertainment Overlay District and an application for a conditional use permit regarding adult

entertainment-type use shall be filed with the Zoning Administrator. The rezoning request shall proceed per Article M procedures. The Zoning Administrator shall refer each petition and application to the Plan Commission for its review and recommendation per Article E, followed by referral and action by the Village Board. The requirements set forth in Article E regarding the conditional use application, review and approval, conditional approval or disapproval of conditional use permits shall be followed. No Adult Entertainment Overlay District shall be created which does not substantially comply with the standards set forth in this Section.

- (2) A petition to amend the Zoning Code to establish an Adult Entertainment Overlay District and for a conditional use permit must be accompanied by three (3) copies of the proposed site plan prepared by a certified land surveyor or planner in addition to any other information required under this Section or by the Zoning Administrator.
 - (3) The Zoning Administrator shall make a recommendation to the Plan Commission and Village Board. Such recommendation may approve, disapprove or approve, subject to conditions or modifications, the zoning and conditional use permit petition, and shall include a written statement of the Zoning Administrator's findings. No petition for an AEO Adult Entertainment Overlay District shall be subject to approval by the Village Board unless the following findings have been made:
 - a. That all standards and requirements of this Section and other applicable Village ordinances can be met by the proposed use.
 - b. That the proposed use will not be detrimental to the public welfare.
 - c. That the proposed zoning is consistent with the general intent of the Comprehensive Plan.
 - d. That existing streets and utility services are adequate for the proposed use.
 - e. That the proposed use will in no substantial way contribute to the deterioration of the surrounding neighborhood.
 - f. That the presence of the proposed use will not have a harmful influence on children residing in or frequenting the area.
 - g. That there will be full compliance with other Village ordinance requirements, including, but not limited to, Title 11, Chapter 7 of this Code of Ordinances. In the case of a conflict in regulatory requirements, the stricter provisions shall be complied with.
- (h) **Standards for Adult Entertainment Uses.** In addition to all other applicable requirements in this Zoning Code, all adult entertainment uses shall meet the following standards:
- (1) The AEO Adult Entertainment Overlay District shall only be established for parcels for which the underlying district is an Industrial District.
 - (2) No more than one (1) of the adult entertainment uses defined herein may be established on any one (1) parcel and any of the adult entertainment uses defined herein shall be at least one thousand (1,000) feet from any other adult entertainment

use. No adult entertainment use shall be permitted within five hundred (500) feet of any establishment serving alcohol beverages, within one thousand (1,000) feet of property zoned Residential, within one thousand five hundred (1,500) feet of any property zoned Agricultural, or within two thousand (2,000) feet of any school, library, church, park, playground, or daycare facility.

- (3) There shall be no sale of intoxicating or fermented malt beverages in the AEO Adult Entertainment Overlay District.
- (4) Signs advertising any of the adult entertainment uses defined herein shall conform with Article H of this Chapter with the exception, however, that no tower-mounted signs, portable signs or billboards shall be permitted on the premises, and with the further exception that signs will not depict or describe "specified anatomical areas" or "specified sexual activities", and providing further that there shall be no flashing or traveling lights located outside the building.
- (5) Adequate parking shall be provided in a lighted area; all such lighting shall be properly shielded.
- (6) There shall be no display windows on the premises.
- (7) The owner and/or operator of the adult entertainment establishment shall comply with all federal, state and local laws and ordinances, including obscenity, liquor, fermented malt beverage and cabaret laws, and shall further ensure that minors are not permitted on the premises. Solicitation for purposes of prostitution shall be strictly prohibited.
- (8) In the case of adult cabarets, the hours of operation for such establishments shall be limited to the same hours of operation for bars and taverns within the Village.
- (9) Prior to the establishment of an AEO Adult Entertainment Overlay District, an inventory of the surrounding area and population shall be made along with a study of the proposed project and plans for the general area so as to enable the Village Board to make appropriate findings relative to the effect of the establishment of an AEO District in that area.
- (10) The owner of the parcel upon which the adult entertainment use is to be established and the operator of the establishment and the owner of the establishment shall appear in person before the Plan Commission and Village Board.
- (11) In the event of noncompliance with any conditions imposed on the adult entertainment use, the zoning permit may be revoked, the AEO Adult Entertainment Overlay District may be abolished by Village Board action, and the parcel shall revert to its underlying zoning classification.

Sec. 13-1-59 E-1 Mineral Extraction or Landfill Overlay District.

- (a) **Purpose.** The intent of this District is to provide a means of properly siting, regulating and reclaiming mineral extraction and landfill sites.

- (b) **Permitted Uses.**
- (1) Mineral extraction operations and landfill sites that are presently in existence, provided that applicable provisions of this Section and all other state, county and local mining, licensing, and reclamation ordinances and regulatory requirements are met. In the event of a conflict between regulatory requirements, the most restrictive provision shall be applicable.
 - (2) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
 - (3) Level 1 and Level 2 chargers are permitted accessory uses in all zoning districts. Level 3 chargers are a permitted accessory use in commercial and industrial districts. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles only. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle. EV charging spaces count towards minimum parking requirements.
- (c) **Conditional Uses.** Conditional uses in the District shall include all conditional uses listed in the underlying district. Conditional use procedures, as described in Article E, shall be adhered to as well as the requirements of this Section, with the more restrictive provision being applicable. In addition, the following are permitted conditional uses:
- (1) Extension of legally existing mineral extraction operation or the creation of a new such extraction operation.
 - (2) New mineral extraction operations and the following: Landfills; solid waste management facilities, recycling centers; bio-remediation sites; and soil extraction or scraping for purposes of obtaining fill material for such large scale operations as landfill sealing, roadbed construction, etc; or similar uses. These uses shall be a conditional use in all zoning districts except in the R-1, R-2, R-3, R-4, R-5 and R-6 Districts.
 - (3) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.
- (d) **Procedures for Establishing E-1 Mineral Extraction or Landfill Overlay District; Conditional Use Permit Application.**
- (1) A petition to amend the Zoning Code to establish an E-1 Mineral Extraction or Landfill Overlay District and an application for a conditional use permit shall be filed with the Zoning Administrator. The rezoning request shall proceed per Article M procedures. The Zoning Administrator shall refer each petition and application to the Plan Commission for its review and recommendation per Article E, followed by referral and action by the Village Board. The requirements set forth in Article E regarding the conditional use application, review and approval, conditional approval or disapproval of conditional use permits shall be followed regarding the conditional use application. No E-1 Mineral Extraction or Landfill Overlay District shall be

created which does not substantially comply with the standards set forth in this Section.

- (2) A petition to amend the Zoning Code to establish an E-1 Mineral Extraction or Landfill Overlay District and for a conditional use permit must be accompanied by three (3) copies of the proposed site plan prepared by a certified land surveyor or planner in addition to any other information required under this Section or by the Zoning Administrator.
- (3) The Zoning Administrator shall make a recommendation to the Plan Commission and Village Board. Such recommendation may approve, disapprove or approve, subject to conditions or modifications, the zoning and conditional use permit petition, and shall include a written statement of the Zoning Administrator's findings.

(e) **Basic District Standards.**

- (1) **Basic Standards.** The basic standards in this District shall be controlled by those of the underlying district unless more restrictive standards are established in the conditional use approval. Also, excavations or fill areas within two hundred (200) feet from any right-of-way or property line shall not be permitted unless the Village Board determines that the operational plans adequately provide for:
 - a. Safety of abutting land uses and for safe ingress to, egress from and traffic flow past the site.
 - b. Aesthetic screening from abutting properties.
 - c. Dust control from the operation and/or any stockpiling.
 - d. Staging of the operation to produce a minimal time frame between commencing of operations and restoration within this two hundred (200) foot area.
- (2) **Permit Validity; Operational Requirements.** The conditional use permit shall be in effect for a period not to exceed one (1) year and may be renewed upon application for a period not to exceed one (1) year; a shorter period may be established by Village Board action. There shall be an annual fee as prescribed by Section 1-3-1 for such permit. Modifications or additional conditions may be imposed upon application for renewal. Operational requirements shall include the following where applicable, and all require Village Board approval:
 - a. Fencing or other suitable barriers shall be erected as necessary to protect the public.
 - b. Machinery, roads and equipment used in the extractive operation shall be constructed, maintained and operated in such a manner as to minimize dust.
 - c. Crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.
 - d. Planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Village and other applicable agencies.
 - e. Hours of operation may be established and enforced by the Village Board.
 - f. Other requirements deemed necessary by the Village Board.

- (3) **Plan of Reclamation.** A reclamation plan meeting the standards of NR 135, Wis. Adm. Code, shall be submitted and approved by all applicable agencies and the Village Board.
- (f) **Existing Operations.** Existing operations shall be subject to the following further requirements:
- (1) **Permit.** Within sixty (60) days after the original adoption of this Section all existing extractive operations shall be required to register with the Zoning Administrator, submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A permit shall be granted to such existing operation, subject to compliance with the operational requirements, listed above where they can be reasonably applied under existing circumstances.
 - (2) **Plan for Restoration.** There shall be required within one (1) year after original adoption of this Section, the submission of a plan for restoration of the site of existing extractive operation as provided above. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Section.
- (g) **Renewal Permit.** Within one year after the original enactment date of this Section, any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this Section.
- (h) **Plan of Operation.** All mineral extraction operations including those operations and activities which lawfully existed prior to the original adoption of this Section shall prepare a plan of operation for the site which shall include the following information:
- (1) Statement of ownership of the parcel and control of the operations.
 - (2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
 - (3) Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.
 - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties and proximity to adjacent properties.
 - (6) Hours of operation and, if applicable, a phasing plan for future operations.
 - (7) Dust and noise control.
 - (8) Maximum depth.
 - (9) Blasting procedures.
 - (10) Location and height of stockpiles.
 - (11) Such other information the Village Board deems pertinent to the operation.

- (i) **Gravel Crushing; Permit Requirement.** In addition to all other conditional use permit and other requirements prescribed in this Section, an annual permit is required for the placement or operation at any mineral extraction site of any portable or fixed gravel crushing equipment. Such gravel crushing operation permit shall be valid for one (1) year; the Village Board may attach reasonable conditions to such permit. The annual fee for the permit shall be as prescribed in Section 1-3-1.
- (j) **Definitions.** As used in this Section:
 - (1) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
 - (2) **Mining/Metallic Mining.** For purposes of this Section, these terms shall mean all types of metallic and nonmetallic mining and their related activities. They shall also refer to "mineral" mining or extraction activities.
 - (3) **Nonmetallic Mining or Mineral Extraction Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
 - (4) **Nonmetallic Mining or Mineral Extraction Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining or mineral extraction operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining or mineral extraction operation.
 - (5) **Nonmetallic Mining or Mineral Extraction Site.** The location where a nonmetallic mining or mineral extraction operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the mineral extraction operation by activities such as the construction or improvement of roads or haulageways.
 - (6) **Operator.** Any person who is engaged in a mineral extraction operation or mineral extraction site reclamation or who applies for or holds a nonmetallic mining permit issued under this mineral extraction reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
 - (7) **Reclamation.** The rehabilitation of a mineral extraction site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
 - (8) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a mineral extraction operation or the provision of soil which is at least

as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

(k) **Exempt Activities.** The reclamation of sites within this District shall not apply to the following activities:

- (1) Excavations or grading by a person solely for domestic use at his or her residence.
- (2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (3) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (4) Excavations for building construction purposes.
- (5) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
- (6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(l) **Financial Assurance.** Before rezoning and a reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:

- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
- (2) Guaranteed completion of the required reclamation within a period determined by the Village Board, consistent with NR 135, Wis. Adm. Code, standards.
- (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of a similar nature.
- (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
- (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Village Engineer's estimated cost of the required improvements.
- (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.

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- (m) **Fences.** Prior to reclamation, mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (n) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Section.
- (o) **Prohibitions and Orders.** Mineral extraction mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Section or if other requirements of this Section are not met.

State Law Reference: NR 135, Wis. Adm. Code.

Sec. 13-1-60 through 13-1-69 Reserved for Future Use.