

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006

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WISCONSIN, v1**

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**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PREFACE**

PREFACE

The Village of Merrimac has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Village, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Village. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Village Board ordered the following codification of the Village's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Village Board of the Village of Merrimac, including revisions or amendments to existing legislation deemed necessary by the Village Board in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Village legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Village legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not. Part III, Land Use Legislation, contains legislation dealing with land use

and development.

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this publication is reserved for such legislation and for any other material that the community may wish to include.

Derivation Table

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and sections of the former Town Code have been included in the 2006 Code, or the reason for exclusion.

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this publication will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Village officials is gratefully acknowledged by the editor. The codification of the legislation of the Village of Merrimac reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

PART I ADMINISTRATIVE LEGISLATION

**PART I
ADMINISTRATIVE LEGISLATION**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS**

Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Village Board of the Village of Merrimac as indicated in article histories. Amendments noted where applicable.]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS /
ARTICLE I, Construction and Penalties [Adopted as §§ 15.01, 15.02(1), 15.03 and
15.04 of the Village Code]**

**ARTICLE I, Construction and Penalties [Adopted as §§ 15.01, 15.02(1), 15.03 and
15.04 of the Village Code]**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS /
ARTICLE I, Construction and Penalties [Adopted as §§ 15.01, 15.02(1), 15.03 and
15.04 of the Village Code] / § 1-1. Rules of construction.**

§ 1-1. Rules of construction.

In the construction of the general ordinances of the Village of Merrimac, Wisconsin, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the ordinance:

- A. Wisconsin Statutes. The term "Wisconsin Statutes" wherever used in such ordinances shall mean the Wisconsin Statutes as of the publication of this Code, as amended or renumbered from time to time. [Amended 4-12-2006 by Ord. No. 2006-01]
- B. Gender; singular and plural. Every word in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to

one person or thing, provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.

- C. Person. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.
- D. Acts by agents. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such provision shall be construed to include all such acts when done by an authorized agent.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Construction and Penalties [Adopted as §§ 15.01, 15.02(1), 15.03 and 15.04 of the Village Code] / § 1-2. Conflicting provisions.

§ 1-2. Conflicting provisions.

If the provisions of the different chapters of the Code of the Village of Merrimac, Wisconsin, conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Construction and Penalties [Adopted as §§ 15.01, 15.02(1), 15.03 and 15.04 of the Village Code] / § 1-3. Documents incorporated by reference.

§ 1-3. Documents incorporated by reference.

Whenever in the general ordinances any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of these ordinances, is adopted by reference, it shall be deemed incorporated in such ordinances as if fully set forth herein, and the Village Administrator is hereby directed and required to file, deposit and keep in his office a copy of the standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Administrator's office hours, subject to such orders or regulations which the Administrator may prescribe for their preservation.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Construction and Penalties [Adopted as §§ 15.01, 15.02(1), 15.03 and

15.04 of the Village Code] / § 1-4. Violations and penalties.

§ 1-4. Violations and penalties.

- A. General penalty. Whenever so provided in the ordinances, any person who shall violate any of the provisions of such ordinances shall, upon conviction of such violation, be subject to a penalty which shall be as follows: [Amended 4-12-2006 by Ord. No. 2006-01]
- (1) First offense penalty. Any person who shall violate any provision of an ordinance subject to a penalty shall, upon conviction thereof, forfeit not less than \$25 nor more than \$1,700, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until said forfeiture and costs are paid, but not exceeding 90 days.
 - (2) Second offense penalty. Any person found guilty of violating any ordinance or part of an ordinance who shall previously have been convicted of a violation of the same ordinance shall, upon conviction thereof, forfeit not less than \$300 nor more than \$2,000 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until said forfeiture and costs of prosecution are paid, but not to exceed six months.
- B. Execution against defendant's property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS /
ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01]**

ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS /
ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-5.
Code adopted.**

§ 1-5. Code adopted.

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Village of Merrimac of a general and permanent nature adopted by the Village Board of the Village of Merrimac, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 185, are hereby approved, adopted, ordained and enacted as the "Code of the Village of Merrimac," hereinafter referred to as the "Code."

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-6. Code superseded prior ordinances.

§ 1-6. Code superseded prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-7. Continuation of existing provisions.

§ 1-7. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-8. Copy of Code on file.

§ 1-8. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Administrator and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Village Administrator, and such certified copy shall remain on file in the office of said Village Administrator to be made available to persons desiring to examine the

same during all times while said Code is in effect.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-9. Amendments to Code.

§ 1-9. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Village Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Village of Merrimac" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-10. Publication; filing.

§ 1-10. Publication; filing.

The Administrator of the Village of Merrimac, pursuant to law, shall cause to be published, in the manner required by law, a copy of this Adoption Ordinance. Sufficient copies of the Code shall be maintained in the office of the Administrator for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-11. Code book to be kept up-to-date.

§ 1-11. Code book to be kept up-to-date.

It shall be the duty of the Village Administrator, or someone authorized and directed by the Administrator, to keep up-to-date the certified copy of the book containing the Code required to be filed in the Administrator's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code

shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-12. Sale of Code book.

§ 1-12. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Administrator or an authorized agent of the Administrator upon the payment of a fee to be set by the Village Board. The Administrator may also arrange for procedures for the periodic supplementation of the Code.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-13. Altering or tampering with Code; penalties for violation.

§ 1-13. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village of Merrimac to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a penalty as provided in Chapter 1, Article I of the Code.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-14. Severability of Code provisions.

§ 1-14. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-15.

Severability of ordinance provisions.

§ 1-15. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-16. Repealer.

§ 1-16. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-17. Ordinances saved from repeal.

§ 1-17. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-16 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to December 1, 2005.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.

- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Village's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending the Zoning Map.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.
- P. Any ordinance or portion of an ordinance establishing a penalty for violation of any ordinance, rule, regulation or order of the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS /
ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-18.
Changes in previously adopted ordinances.**

§ 1-18. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the Village of Merrimac, no changes in the meaning or intent of such ordinances have been made, except as

provided for in Subsections B and C hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Village Board that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.

B. The following changes are made throughout the Code:

- (1) References to specific chapters and sections of the Wisconsin Statutes and Wisconsin Administrative Code are revised to reflect the numbering of the statutes and Administrative Code as of the publication of this Code.
- (2) References to the "Clerk," "Treasurer," "Zoning Administrator" and "Water Superintendent" are amended to refer to the Village Administrator.
- (3) References to the "Planning and Zoning Committee" are amended to read "Plan Commission."
- (4) References to the "Zoning Board of Appeals" and "Board of Zoning Appeals" are amended to read "Board of Appeals."
- (5) References to the "Water Department" are amended to read "Water Utility."
- (6) References to the "Health Officer" are amended to read "Village Board."
- (7) Specific fee amounts are removed and replaced with a reference to the Village Fee Schedule, except in § 176-14B(2).
- (8) Forfeiture amounts are removed and replaced with a reference to the general penalty in § 1-4, except in § 60-46.
- (9) References to the "Chief of Police" are amended to read "Sauk County Sheriff."
- (10) References to the "Department of Industry, Labor and Human Relations" and "Industrial Commission" are amended to read "Department of Commerce."
- (11) References to the "Department of Health and Social Services" are amended to read "Department of Health and Family Services."

C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)^{EN(1)}

**ARTICLE II, Adoption of Code [Adopted 4-12-2006 by Ord. No. 2006-01] / § 1-19.
When effective.**

§ 1-19. When effective.

This ordinance shall take effect upon passage and publication as required by law.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS**

Chapter 5, ASSESSMENTS

[HISTORY: Adopted by the Village Board of the Village of Merrimac by Ord. No. 85-8-12 (Ch. 23 of the Village Code). Amendments noted where applicable.]

GENERAL REFERENCES

Finance and taxation -- See Ch. 15.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS / § 5-1.
Levy of special assessments.**

§ 5-1. Levy of special assessments.

In addition to other methods provided by law, special assessments for any public work or improvement or any current service may be levied in accordance with the provisions of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS / § 5-2.
Contents of resolution.**

§ 5-2. Contents of resolution.

Whenever the Village Board shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this chapter, it shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessments will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of the assessments may be deferred while no use of the improvement is made in connection with the property.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS / § 5-3.
Applicability of statute.**

§ 5-3. Applicability of statute.

The provisions of § 66.0703, Wis. Stats., shall apply to special assessments levied under this chapter, except that when the Village Board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by § 66.0703(4), Wis. Stats., shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS / § 5-4.
Notices.**

§ 5-4. Notices.

Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by § 66.0703(7) and (8)(d), Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS / § 5-5. Lien
against property.**

§ 5-5. Lien against property.

Any special assessment levied under this chapter, or within 30 days prior to adoption of this chapter, shall be a lien against the property assessed from the date of the final resolution of the Village Board determining the amount of the levy.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 5, ASSESSMENTS / § 5-6.
Appeals.**

§ 5-6. Appeals.

Any person against whose property a special assessment is levied under this chapter may appeal therefrom in the manner prescribed by § 66.0703(12), Wis. Stats., within 40 days of the date of the final

determination by the Village Board.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 9, BOARDS, COMMISSIONS
AND COMMITTEES**

Chapter 9, BOARDS, COMMISSIONS AND COMMITTEES

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 3, §§ 3, 4, 5 and 6, Ch. 10, § 10.01, and Ch. 16 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees -- See Ch. 21.

Village Board -- See Ch. 35.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 9, BOARDS, COMMISSIONS
AND COMMITTEES / § 9-1. Board of Health. EN**

§ 9-1. Board of Health. EN(2)

- A. Until such appropriate time the Village Board of the Village of Merrimac shall assume the responsibilities of a Board of Health as provided by § 251.04, Wis. Stats.
- B. It shall be the duty of the Village Board of the Village of Merrimac to manage the general administration of health and sanitation laws and regulations in the Village.
- C. The Board shall take such measures and make such rules and regulations effectual for the preservation and promotion of the public health in the Village of Merrimac. All orders and regulations of the Board shall be posted as provided by statute and after such posting shall have the force and effect of ordinances.
- D. The Board shall:
 - (1) Make or cause to be made an annual sanitary survey and maintain continuous sanitary supervision over the Village.
 - (2) Make or cause to be made a periodic sanitary inspection at least every four months of all school buildings, restaurants, dairies, grocery stores, meat markets and places of public assemblage and report thereon to those responsible for the maintenance thereof and file a written report of each inspection with the Village Administrator.

- (3) Promote the spread of information as to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health.
- (4) Enforce the health laws, rules and regulations of the state and the Village, including the laws relating to contagious diseases contained in Ch. 252, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 9, BOARDS, COMMISSIONS
AND COMMITTEES / § 9-2. Board of Review.**

§ 9-2. Board of Review.

The Board of Review of the Village of Merrimac shall be composed of six members, including the Village President, the Village Administrator and all members of the Village Board of Trustees. The Board of Review shall have the duties and powers prescribed by § 70.47, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 9, BOARDS, COMMISSIONS
AND COMMITTEES / § 9-3. Plan Commission.**

§ 9-3. Plan Commission.

- A. How constituted. The Village Plan Commission shall consist of members as follows: one Trustee and four citizens. Citizen members shall be persons of recognized experience and qualifications. All members shall be residents of the Village.^{EN(3)}
- B. Appointment.
 - (1) Chairperson and Trustee member. The Chairperson and Trustee member of the Plan Commission shall be elected by a two-thirds vote of the Village Board upon creation of the Plan Commission and during each April thereafter.^{EN(4)}
 - (2) Citizen members. Four citizen members shall be appointed by the Village President upon creation of the Commission to hold office as follows: one for one year, two for two years and one for three years respectively from the succeeding first day of May, and thereafter annually during April one such member shall be appointed for a term of three years.^{EN(5)}
 - (3) Additional citizen member. The additional citizen member, who shall be appointed by the Village President, shall be first appointed to hold office for a period of one year from the succeeding first day of May and thereafter annually during April. Whenever a Park Board is created, the President of such Board shall succeed to a place on said Plan

Commission when the term of such additional citizen member shall expire.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 9, BOARDS, COMMISSIONS
AND COMMITTEES / § 9-4. Board of Appeals. EN**

§ 9-4. Board of Appeals. EN(6)

The Board of Appeals of the Village of Merrimac shall consist of five members and two alternate members, one of whom shall be a Village Board member and all of whom shall be residents of the Village appointed by the Village President and confirmed by a majority vote of the Village Board. Members first appointed shall serve one for one year, two for two years and two for three years, and the alternate members shall serve three years. Thereafter, all members shall be appointed for three years. The Board shall have the powers and duties prescribed by Chapter 185, Zoning, of this Code and § 62.23, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 9, BOARDS, COMMISSIONS
AND COMMITTEES / § 9-5. Water Commission.**

§ 9-5. Water Commission.

- A. There is hereby established a commission to be known as the "Merrimac Municipal Water Commission." Such Commission shall consist of five members, and at least one Commissioner shall be a member of the Village Board, selected annually by the Village Board, for a term of one year beginning on the first day of August. The remaining Commissioners shall be elected by the Board for a term, beginning on the first day of August, of as many years as there are Commissioners, except that the terms of the Commissioners first elected shall expire successively one each year on each succeeding first day of August. EN(7)
- B. The Merrimac Municipal Water Commission shall have the powers and duties specifically provided in § 66.0805, Wis. Stats., and such other powers and duties as shall from time to time be granted by the Village Board, including the following:
 - (1) The Commission shall take entire charge and management of the Water Utility, shall appoint a manager or superintendent thereof, with the power to fix his compensation for services rendered, and shall supervise the operation of the Utility under the general control and supervision of the Village Board of Merrimac.
 - (2) Utility funds shall be segregated under an account designation "Merrimac Municipal Water Department" and departmental expenditures shall be audited by the Commission and, if approved by the President and Secretary of the Commission, be paid by the

Village Administrator as provided by § 66.0607, Wis. Stats.

- (3) The Commission shall make recommendations to the Village Board with respect to the construction, extension, improvement and operation of the Utility and shall aid the Board in planning activities connected with any future expansion of the Utility system.
- C. There are presently on file with the Public Service Commission of Wisconsin operating rules for the Merrimac Municipal Water Department and such operating rules, together with any amendments thereto as recommended by the Wisconsin Public Service Commission, are hereby adopted and by reference made a part of this section as if set forth in full. Any act required or prohibited by any Public Service Commission operating rule incorporated herein by reference is required or prohibited by this section.
- D. As soon as all members of the first Commission shall have been selected, the Village Administrator shall give each Commissioner a written notice of such selection and thereupon shall fix the time and date for the first meeting which shall be not less than five days nor more than 10 days thereafter. The Commissioners shall choose from among their members a President and Secretary and they may make rules for their own proceedings and for the government of their department. The Commission shall meet at least monthly, in the Municipal Building of the Village of Merrimac, on a particular day of the week at the option of the Commission; provided, however, that notice of each such meeting shall be given the Village Board at least one week in advance thereof. Additional meetings may be held at the option of the Commission, but upon reasonable notice to all the five members thereof. Three members of the Commission shall constitute a quorum, and all actions shall require the affirmative approval of the majority of the members. The Village Administrator will attend the meetings of the Commission in an ex officio capacity, and the Water Department Superintendent shall also attend meetings of the Water Commission upon the request of the Commission.
- E. The Village Board of the Village of Merrimac shall assume the responsibilities of a Water Commission in the absence of an appointed Water Commission pursuant to § 66.0805, Wis. Stats.^{EN(8)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION**

Chapter 15, FINANCE AND TAXATION

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 14, §§ 14.01 to 14.04, and Ch. 22 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Assessments -- See Ch. 5.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-1. Aggregate tax stated on roll.**

§ 15-1. Aggregate tax stated on roll.

Pursuant to § 70.65(2), Wis. Stats., the Village Administrator shall, in computing the tax roll, insert only the aggregate amount of state, county, school and local taxes in a single column in the roll opposite the parcel or tract of land against which the tax is levied or, in the case of personal property, in a single column opposite the name of the person, firm or corporation against whom or which the tax is levied.^{EN(9)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-2. Administrator's bond eliminated.**

§ 15-2. Administrator's bond eliminated.

- A. Bond eliminated. The Village of Merrimac elects not to give the bond on the Village Administrator provided for by § 70.67(1), Wis. Stats.
- B. Village liable for default of Administrator. Pursuant to § 70.67(2), Wis. Stats., the Village of Merrimac shall be obligated to pay, in case the Village Administrator shall fail to do so, all state and county taxes required by law to be paid by such Administrator to the County Treasurer.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 11-15-2017 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-2.1. Treasurer's bond eliminated.**

§ 15-2.1. Treasurer's bond eliminated.

- A. The Treasurer of the Village is exempted from giving, executing, and delivering to the Sauk County Treasurer the bond specified in s. 70.67(2) of the Wisconsin Statutes.
- B. The Village shall pay, in case the Village Treasurer fails to do so, all State and County taxes that the Treasurer is required to pay to the County Treasurer.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-3. Claims against Village.**

§ 15-3. Claims against Village.

- A. Claims to be certified. Prior to submission of any account, demand or claim to the Village Board for approval of payment, the Village Administrator shall certify, or cause to be endorsed thereon or on attached papers, that the following conditions have been complied with:
- (1) Funds are available therefor pursuant to the budget.
 - (2) The item or service was duly authorized by the proper official or agency and has been received or rendered in accordance with the purchasing agreement.
 - (3) The claim is accurate in amount and a proper charge against the treasury.
- B. Village Board to audit accounts. No account or demand against the Village, except as provided in Subsection C of this section, shall be paid until it has been audited by the Village Board and an order drawn on the Village Administrator therefor. Every such account shall be itemized and certified as provided in Subsection A. After auditing, the Village Board shall cause to be endorsed by the Administrator, on each account, the word "allowed" or "disallowed," as the fact is, adding the amount allowed or specifying the items or parts of items disallowed. The minutes of the proceedings of the Board or a statement attached thereto shall show to whom and for what purpose every such account was allowed and the amount.
- C. Payment of regular wages or salaries. Regular wages or salaries of Village officers and employees shall be paid by payroll, verified by the proper Village official, department head, board or commission and filed with the Village Administrator in time for payment on the regular pay day.
- D. Method of incurring claims. All actions of the Village Board appropriating money or creating a charge against the Village, other than claims for purchases or work previously authorized by the Board, shall only be acted upon at the next regular meeting of all members of the Board. A roll call vote shall be taken and recorded on all appropriations.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-4. Budget preparation and adoption.**

§ 15-4. Budget preparation and adoption.

- A. Village President to prepare budget. On or before the 20th day of October each year the Village President, with the assistance of the Village Administrator, shall prepare and submit to the Village Board a proposed budget presenting a financial plan for conducting the affairs of the Village for the ensuing year. Before preparing the proposed budget, the President shall consult with the heads of Village departments and with Village officials and shall then determine the total amount to be recommended in the budget for each Village department or activity.
- B. Form of proposed budget. The proposed budget shall include the following information:
 - (1) The actual expenditures of each department and activity for the expired portion of the current year and last preceding fiscal year and the estimated expense of conducting each department and activity of the Village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
 - (2) An itemization of all anticipated income of the Village from sources other than general property taxes and bond issues, with a comparative statement of the amount received by the Village from each of the same or similar sources for the last preceding and current fiscal years.
 - (3) All existing indebtedness of the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
 - (4) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
 - (5) Such other information as may be required by the Village Board and by state law.
- C. The Village Board shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.
- D. Appropriation ordinance; hearing. The Village President, with the assistance of the Village Administrator, shall submit to the Village Board with the annual budget a draft of an ordinance providing for the expenditures proposed for the ensuing fiscal year. Before adoption of a final appropriation ordinance, the Village Board shall hold a public hearing on the budget and the proposed appropriation ordinance as required by law.
- E. Changes in final budget. Upon written recommendation of the Village President, the Village Board may at any time by a two-thirds vote of the entire membership transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by posting within eight days thereafter in a newspaper in general circulation in the Village.

- F. Expenditures limited by annual appropriation. No money shall be drawn from the treasury of the Village nor shall any obligation for the expenditure of money be incurred except in pursuance of the annual appropriation ordinance and changes therein authorized in accordance with Subsection E of this section. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation, but appropriations may be made by the Village Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-5. Interest penalty on delinquent personal property taxes.**

§ 15-5. Interest penalty on delinquent personal property taxes.

The interest penalty due on delinquent personal property taxes is hereby raised from 1% monthly to 1.5% monthly effective immediately.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 15, FINANCE AND TAXATION /
§ 15-6. Licenses to be withheld for nonpayment of municipal charges. EN**

§ 15-6. Licenses to be withheld for nonpayment of municipal charges. EN⁽¹⁰⁾

Licenses may be withheld by the Village if the applicant for a license or for renewal of a license owes municipal taxes, assessments or other fees. This section applies to all municipal licenses, including intoxicating liquor and fermented malt beverage licenses.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES**

Chapter 21, OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 3, §§ 1, 2 and 7 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

**Boards, commissions and committees -- See Ch. 9.
Village Board -- See Ch. 35.**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES / § 21-1. Trustees and President.**

§ 21-1. Trustees and President.

- A. Trustees. There shall be four Trustees of the Village of Merrimac. Two Trustees shall be elected at each annual spring election for a term of two years, commencing on the third Tuesday of April in the year of their election.
- B. President. The President of the Village of Merrimac shall be chosen at the regular spring election in odd-numbered years for a term of two years, commencing on the third Tuesday of April in the year of his election.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES / § 21-2. Assessor. EN**

§ 21-2. Assessor. EN(11)

The Village Assessor shall be appointed for an indefinite term by the Village Board. The term of the holder of such office shall begin at the discretion of the Village Board. Compensation to be paid to the holder of such office shall be determined by the Village Board.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES / § 21-3. Administrator.**

§ 21-3. Administrator.

- A. Pursuant to the provisions of §§ 61.195, 61.197 and 66.0101, Wis. Stats., the Village of Merrimac, Sauk County, Wisconsin, hereby elects not to be governed by those portions of §§ 61.19, 61.23 and 61.25(2), Wis. Stats., which relate to selection and tenure of the Village Clerk, Village Treasurer and Village Assessor and which are in conflict with this section.
- B. There is hereby created the office of the Village Clerk-Treasurer, and such Clerk-Treasurer instead of being elected shall be appointed by a majority vote of the members of the Village Board. Said office of Clerk-Treasurer shall be a full-time position, and, further, the position shall hereinafter be referred to and known as the position of "Village Administrator."

- C. Said Village Administrator shall hold office for an indefinite term, subject to removal as provided by law for officers appointed by the Village Board. Such term of office shall begin at the discretion of the Village Board, and the compensation to be paid to the holder of the position of Village Administrator shall be determined by the Village Board.^{EN(12)}
- D. The Village Administrator appointed to perform the duties of the combined offices shall perform all duties required of each of the offices enumerated above as provided by law and such other duties as are requested to be executed by such person by the Village Board from time to time.
- E. This section shall not in any way affect the right of any person whose term of office has begun but has not expired on the effective date of this section to complete his term of office.
- F. This is a Charter Ordinance and shall be effective 60 days after its passage and publication unless within such sixty-day period a referendum petition as provided by § 66.0101, Wis. Stats., shall be filed, in which event this section shall not take effect until it shall have been submitted to a referendum vote of the electors and approved by a majority of the electors voting thereon.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES / § 21-4. Appointment of Attorney and Building Inspector. EN**

§ 21-4. Appointment of Attorney and Building Inspector. ^{EN(13)}

- A. The Attorney and Building Inspector shall be appointed as required to fill vacancies by the Village President, subject to confirmation by a majority vote of the members of the Board.
- B. The Village President shall not vote on the confirmation of such appointments except in case of a tie. The term of office of each official so appointed shall be at the discretion of the Village Board. All terms shall commence at the discretion of the Village Board.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES / § 21-5. Weed Commissioner. EN**

§ 21-5. Weed Commissioner. ^{EN(14)}

The Village Administrator shall assume the responsibility for weed control in the absence of an appointed Weed Commissioner.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND EMPLOYEES / § 21-6. Director of Public Works.

§ 21-6. Director of Public Works.

- A. Appointment. The Director of Public Works shall be appointed by a majority vote of the Village Board solely on the basis of merit, training, experience, administrative ability, efficiency and general qualifications and fitness for performing the duties of the position.
- B. Term. The Director of Public Works shall hold office for an indefinite term subject to removal for cause after a public hearing by a three-fourths vote of the Village Board.
- C. Duties and powers. The Director of Public Works shall have the following duties and powers. The Director shall:
 - (1) Have general charge and supervision of all public works in the Village.
 - (2) Be responsible for the maintenance, repair and construction of streets, alleys, curbs and gutters, sidewalks, bridges, street signs, storm sewers, culverts and drainage facilities, sanitary sewers, Village buildings and structures and all machinery, equipment and property used in any activity under his control.
 - (3) Have charge of all public services, including garbage and refuse collection and disposal, snow and ice removal, street cleaning and flushing, and mosquito and rodent control.
 - (4) Perform such other activities and duties as are imposed upon him from time to time by the Village Board.
- D. The Village Administrator shall assume the responsibilities of the Director of Public Works in the absence of an appointed Director of Public Works.^{EN(15)}

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND EMPLOYEES / § 21-7. General regulations for all Village officers.

§ 21-7. General regulations for all Village officers.

- A. Effect. The provisions of this section shall apply to all officers of the Village, regardless of the time of creation of the office or selection of the officer, unless otherwise specifically provided by ordinance or resolution of the Village Board.
- B. Oath of office. Every officer of the Village, including members of Village boards and commissions, shall, before entering upon his duties and within five days of notice of his election or appointment, take the oath of office prescribed by law and file said oath in the

office of the Village Administrator. Any person reelected or reappointed to the same office shall take and file an official oath for each term of service.^{EN(16)}

- C. Bond. Every officer shall, if required by law or the Village Board, upon entering upon the duties of his office, give a bond in such amount as may be determined by the Village Board, with such sureties as are approved by the Village President, conditioned upon the faithful performance of the duties of his office. Official bonds shall be filed as are oaths as provided in Subsection B of this section.^{EN(17)}
- D. Salaries. All officers of the Village shall receive such salaries as may be provided from time to time by the Village Board by ordinance. No officer receiving a salary from the Village shall be entitled to retain any portion of any fees collected by him for the performance of his duties as such officer in the absence of a specific law or ordinance to that effect. Payment of regular wages and salaries established by the Village Board shall be by pay roll. The regular pay day shall be on a quarterly schedule.^{EN(18)}
- E. Vacancies. Vacancies in elective offices shall be filled by appointment by a majority vote of the Village Board for the remainder of the unexpired term. Vacancies in appointive offices shall be filled in the same manner as the original appointment for the remainder of the unexpired term unless the term for such office is indefinite.
- F. Outside employment. No full-time officer of the Village shall engage in any other remunerative employment within or without the Village, provided that the Village Board may approve such outside employment or activity if it finds that it does not interfere or conflict with such officer's ability to perform his duties in an efficient and unbiased manner. Violation of this provision shall be grounds for removal from office of any such officer.
- G. Removal. Appointed officers may be removed pursuant to § 17.13(1), Wis. Stats.^{EN(19)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 21, OFFICERS AND
EMPLOYEES / § 21-8. Compensation. EN**

§ 21-8. Compensation. ^{EN(20)}

The President, Trustees and officers of the Village of Merrimac (including committee members) shall receive such compensation as is established on the Village Fee Schedule.^{EN(21)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS**

Chapter 29, RECORDS

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 1 and Ch. 14, § 14.05, of the Village Code. Amendments noted where applicable.]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-1.**

Purpose. EN

§ 29-1. Purpose. EN(22)

The purpose of this chapter is to provide for the maintenance and destruction of Village of Merrimac records and for public access to such records.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-2.**

Definitions.

§ 29-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTHORITY -- Any of the following Village entities having custody of a Village record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the foregoing.

CUSTODIAN -- That officer, department head, division head, or employee of the Village designated under § 29-4 or otherwise responsible by law to keep such records in his or her office or who is lawfully in possession of such public records and who is required by this chapter to respond to requests for access to such records.

RECORD -- Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes, floppies and disks), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by

copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library.^{EN(23)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-3. Duty to
maintain records.**

§ 29-3. Duty to maintain records.

- A. Except as provided under § 29-8, each officer and employee of the Village shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- B. Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Village Administrator. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Administrator, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-4. Legal
custodians.**

§ 29-4. Legal custodians.

- A. Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.
- B. Unless otherwise prohibited by law, the Village Administrator or the Administrator's designee shall act as legal custodian for the Village Board and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Village Board.
- C. For every authority not specified in Subsection A or B, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

- D. Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.
- E. The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subchapter II of Ch. 19, Wis. Stats., and this chapter. The designation of a legal custodian does not affect the powers and duties of an authority under this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-5. Public
access to records.**

§ 29-5. Public access to records.

- A. Except as provided in § 29-7, any person has a right to inspect a record and to make or receive a copy of any record as provided in § 19.35(1), Wis. Stats.
- B. Records will be available for inspection and copying during all regular office hours as per § 19.34, Wis. Stats.^{EN(24)}
- C. A requester shall be permitted to use facilities comparable to those available to Village employees to inspect, copy or abstract a record.
- D. The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- E. A requester shall be charged a fee to defray the cost of locating and copying records as follows:
 - (1) The cost of photocopying shall be as provided by the Village Fee Schedule.^{EN(25)} Said cost will be calculated not to exceed the actual, necessary and direct cost of reproduction.
 - (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
 - (3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio or video tapes, shall be charged.
 - (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
 - (5) There shall be no charge for locating a record unless the actual cost therefor exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

- (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.
 - (7) Elected and appointed officials of the Village of Merrimac shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
 - (8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- F. Pursuant to §§ 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of §§ 19.31 to 19.39, Wis. Stats. [Subsection E(4) through (6) of this section]. This subsection does not apply to members of the Village Board.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-6. Access
procedures.**

§ 29-6. Access procedures.

- A. A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under § 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under § 29-5E. A requester may be required to show acceptable identification whenever the requested records are kept at a private residence or whenever security reasons or federal law or regulations so require.
- B. Each custodian, upon request for any record, shall, as soon as practicable without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in

a manner which would permit reasonable compliance.^{EN(26)}

- C. A request for a record may be denied as provided in § 29-7. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons for denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, the determination is subject to review upon petition for a writ of mandamus under § 19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.^{EN(27)}
- D. Any use of Village tax rolls, water or sewer billing lists or other lists must first be approved by the Village Administrator.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-7.
Limitations on right to access. EN**

§ 29-7. Limitations on right to access. ^{EN(28)}

- A. As provided by § 19.36, Wis. Stats., the following records are exempt from inspection under this chapter:
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law.
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.
 - (3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
 - (4) A record or any portion of a record containing information qualifying as a common law trade secret.
- B. As provided by § 43.30, Wis. Stats., public library circulation records are exempt from inspection under this chapter.
- C. In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Village Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are

not limited to, the following:

- (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
- (2) Records of current deliberations after a quasi-judicial hearing.
- (3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Village officer or employee or the investigation of charges against a Village officer or employee, unless such officer or employee consents to such disclosure.
- (4) Records concerning current strategy for crime detection or prevention.
- (5) Records of current deliberations or negotiations on the purchase of Village property, investing of Village funds, or other Village business whenever competitive or bargaining reasons require nondisclosure.
- (6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
- (7) Communications between legal counsel for the Village and any officer, agent or employee of the Village when advice is being rendered concerning strategy with respect to current litigation in which the Village or any of its officers, agents or employees is or is likely to become involved or communications which are privileged under § 905.03, Wis. Stats.

D. If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If in the judgment of the custodian and the Village Attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 29, RECORDS / § 29-8.
Destruction of obsolete records.**

§ 29-8. Destruction of obsolete records.

- A. Financial records. Village officers are empowered to destroy the following nonutility records under their jurisdiction after the completion of an audit by a certified public accounting firm or an auditor licensed under Ch. 442, Wis. Stats., but not less than seven years after payment or receipt of the sum involved in the applicable transaction:^{EN(29)}
- (1) Bond statements, deposit books, slips and stubs.
 - (2) Canceled checks, duplicates and check stubs.
 - (3) License and permit applications, stubs and duplicates.
 - (4) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (5) Receipt forms.
 - (6) Special assessment records.
 - (7) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- B. Utility records. Village officers are empowered to destroy the following records of municipal utilities subject to regulation by the State Public Service Commission and after an audit as provided above, but not less than two years after payment or receipt of the sum involved in the applicable transaction:
- (1) Water (sewer) (electrical) stubs and receipts of current billings.
 - (2) Customers' ledgers.
 - (3) Vouchers and supporting documents pertaining to charges not included in plant accounts.
 - (4) Other utility records after seven years with the written approval of the State Public Services Commission.
- C. Other records. Village officers are empowered to destroy the following records, but not less than seven years after the record was effective:
- (1) Assessment rolls and related records, including Board of Review minutes.
 - (2) Contracts and papers relating thereto.
 - (3) Correspondence and communications.
 - (4) Financial reports other than annual financial reports.

- (5) Insurance policies.
 - (6) Justice dockets.
 - (7) Oaths of office.
 - (8) Reports of boards, commissions, committees and officials duplicated in the official Village Board minutes.
 - (9) Resolutions and petitions.
 - (10) Voter record cards.
- D. Notice required. Prior to the destruction of any record described above, at least 60 days' notice shall be given the State Historical Society.
- E. Limitation. This section shall not be construed to authorize the destruction of any public record after a period less than prescribed by statute or state administrative regulations.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD**

Chapter 35, VILLAGE BOARD

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 2 of the Village Code. Amendments noted where applicable.]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-1.
Meeting time and date.**

§ 35-1. Meeting time and date.

- A. Regular meetings. Regular meetings of the Village Board shall be held on the second Wednesday of each calendar month at 7:00 p.m. Any regular meeting falling on a legal holiday shall be held the next following secular day at the same hour and place.
- B. Special meetings. Special meetings of the Board may be called by two Trustees by filing a written request with the Administrator at least 24 hours prior to the time specified for such meeting. The Administrator shall immediately notify each Trustee personally or by notice left at his usual place of abode. The Administrator shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meeting. Special meetings may be held without notice when all members of the Board are present or consent

in writing to the holding of said meeting. Unless all Trustees are in attendance, no business shall be transacted at a special meeting except for the purpose stated in the notice thereof.

- C. Place of meetings. All meetings of the Board, including special and adjourned meetings, shall be held in the Village Hall.
- D. Quorum. Three Trustees, including the Village President, shall constitute a quorum but a lesser number may adjourn from time to time or compel the attendance of absent members. Any Trustee who shall without good cause fail to attend a regular or adjourned meeting or special meeting called in accordance with these rules may be subject to a fine as provided by Chapter 1, § 1-4 of this Code by vote of all members present at such meeting, whether or not such members constitute a quorum.^{EN(30)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-2.
Order of business.**

§ 35-2. Order of business.

The business of the Village Board shall be conducted in the following order.

- A. Call to order by presiding officer.
- B. Roll call. (If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specified date.)
- C. Reading, correction and approval of minutes of previous meeting.
- D. Committee reports.
- E. Unfinished business from previous meeting.
- F. New business, including introduction of ordinances and resolutions.
- G. Reports of Village officers.
- H. Communications and miscellaneous business.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-3.
Presiding officer.**

§ 35-3. Presiding officer.

- A. Control of meeting. The Village President shall preserve order and conduct the proceedings of the meeting. A member may appeal from the decision of the presiding officer. Such appeal is not debatable and must be sustained by a majority of the members present, exclusive of the presiding officer.
- B. Absence of President. If the President is absent at any meeting, the Administrator shall call the meeting to order and preside until the Board selects a Trustee to preside for that meeting.
- C. Participation in debate. The presiding officer may speak upon any question or make any motion if he vacates the Chair and designates a Trustee to preside temporarily.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-4.
Committees. EN**

§ 35-4. Committees. EN(31)

- A. Committee appointments. At the first regular Board meeting in May the President shall appoint members to each of the following standing committees:
 - (1) Committee on Finance (including licenses and permits, employee relations, etc.).
 - (2) Committee on Public Safety (including police, fire, emergency, building, zoning, etc.).
 - (3) Committee on Public Works (including streets, sewers, water, lighting, etc.).
 - (4) Committee on Public Welfare (including health, relief, etc.).
- B. Chairperson. The President shall be ex officio Chairperson of the Committee on Finance and shall designate the chairpersons of other standing committees. He shall appoint all special committees and designate the chairperson of each. All committee appointments except designation of chairperson shall be subject to confirmation by a majority vote of the Board.
- C. Committee reports. Each committee shall at the next regular meeting submit a written report on all matters referred to it. Such report shall recommend a definite action on each item and shall be signed by the chairperson of the committee. Any committee may require any Village officer to confer with it and supply information in connection with any matter pending before it.
- D. In the absence of committee appointments, the Village Board assumes the responsibility of the committees.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

**PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-5.
Ordinances and resolutions.**

§ 35-5. Ordinances and resolutions.

Ordinances, resolutions, bylaws, communications, and other matters submitted to the Board shall be read by title and author and referred to the appropriate committee by the President. No ordinance, resolution or bylaw shall be considered unless presented in writing by a Trustee. Unless requested by a Trustee before final vote is taken, no ordinance, resolution, or bylaw need be read in full.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-6.
General rules.**

§ 35-6. General rules.

The deliberations of the Board shall be conducted in accordance with the parliamentary rules contained in Robert's Rules of Order Revised (1951), which is hereby incorporated in this section by reference. No person other than a member shall address the Board except by majority vote of the members present. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART I ADMINISTRATIVE LEGISLATION / Chapter 35, VILLAGE BOARD / § 35-7.
Suspension of rules.**

§ 35-7. Suspension of rules.

These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of 2/3 of the members present.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION**

**PART II
GENERAL LEGISLATION**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS**

Chapter 42, ADULT ENTERTAINMENT ESTABLISHMENTS

[HISTORY: Adopted by the Village Board of the Village of Merrimac at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Zoning -- See Ch. 185.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-1. Findings and purpose.**

§ 42-1. Findings and purpose.

- A. It is a lawful purpose of the Village Board of the Village of Merrimac to enact regulatory ordinances protecting and promoting the general welfare, peace, security, health and safety of its citizens and good order of the Village and its neighborhoods.
- B. The Village is empowered to enact such ordinances pursuant to Article XI, § 3 of the Wisconsin Constitution and §§ 62.11(5), 62.23, 66.0101, 66.0107, and other home rule, police power and applicable provisions of the Wisconsin Statutes, all as from time to time amended or renumbered, for the public health, welfare, peace, tranquility, good order and public benefit.
- C. It is the purpose of this chapter to regulate public nudity and sexually oriented activities to protect and promote the general welfare, peace, security, health and safety of the citizens and good order of the Village and its neighborhoods; to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village; to reasonably license such activities to facilitate the public

welfare; and to limit the negative, adverse and undesirable secondary effects flowing from such establishments.

- D. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, or adult entertainment; nor is it the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials or adult sexually oriented entertainment protected by the First Amendment, nor to deny access by the distributors or exhibitors of sexually oriented entertainment in their intended market; nor is it the intent or effect of this chapter to condone or legitimize the distribution of obscene materials.
- E. The Village Board, based upon the actual experience, studies, findings and reports of other cities, communities and local governments from across the United States, including but not limited to Erie, Pennsylvania; Seattle and Renton, Washington; Detroit, Michigan; Phoenix and Tucson, Arizona; Los Angeles and Whittier, California; Times Square and New York, New York; Cleveland, Ohio; Austin, Dallas, Houston, El Paso and Amarillo, Texas; Oklahoma Village, Oklahoma; Indianapolis, Indiana; St. Paul and Minneapolis, Minnesota, to name a few, finds that:
- (1) Adult-oriented entertainment establishments and public nudity in such establishments by performers, employees and patrons:
 - (a) Can and do contribute to the impairment of the character and quality of surrounding residential neighborhoods;
 - (b) Contribute to the decline and the value of surrounding properties;
 - (c) Contribute to physical deterioration and blight of neighborhoods;
 - (d) Have a deleterious effect on both existing businesses around them and surrounding residential areas, including increased transiency and increased levels of criminal activities, including prostitution; promotion of prostitution; rape; sexual assaults or other assaults; other sex-related crimes; robbery; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual molestation; molestation of a child; disorderly conduct; disturbances of the peace; drinking in public; littering; and other violations of the law.
 - (e) Contribute to a decline in the value of the surrounding properties which in turn could and often does have a detrimental effect upon development, growth of nearby development and tax incremental financing districts;
 - (f) Harm the economic welfare of the communities; and

- (g) Negatively and adversely affect the quality of life in the communities.
- (2) Sexually oriented businesses lend themselves to unhealthy activities that are generally uncontrolled by owners and operators without regulations and that there is presently no mechanism without this chapter to effectively make the owners and operations of such establishments responsible for the activities that occur upon the premises.
 - (3) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.
 - (4) Sexual acts, including masturbation and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing files, videos, or live sex shows. See, e.g., *California v. LaRue*, 409 U.S. 109, 111 (1972). See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.
 - (5) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
 - (6) Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses. See, e.g., *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 698 (1986). See also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
 - (7) Many adult entertainment establishments provide live entertainment in which physical contact between performers and customers, often sexual in nature, occurs and can occur, thus facilitating the transmission of various diseases, including AIDS.
 - (8) In Milwaukee and Kenosha Counties, Wisconsin; the Village of Waukesha, Wisconsin; the Village of Janesville, Wisconsin; the Village of Somerset, Wisconsin; Chattanooga, Tennessee; Newport News, Virginia; and Marion County, Indiana, to name a few locales, it has been found that the viewing booths in adult-oriented establishments have been and are being used by patrons of said establishments for engaging in sexual acts, particularly between males, including but not limited to intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions in said booths.
 - (9) Acquired Immune Deficiency Syndrome (AIDS) is a sexually transmitted disease which destroys the body's immune system, is fatal, and has no known cure.
 - (10) The viral agents responsible for AIDS and other sexually transmitted diseases have all been isolated at one time or another from semen.
 - (11) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, genital chlamydia

trachomatis, human immunodeficiency virus infection (HIV-AIDS), genital herpes, Hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Myers, Florida.

- (12) As of December 2002, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 886,575. See, e.g., Statistics of the United States Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
- (13) In 2004, statistics from the State of Wisconsin had indicated that as of December 31, 2003, 8,328 cases of AIDS were reported in the state including 3,301 that resulted in death.
- (14) As of January 1, 1995, the State of Wisconsin Department of Health and Family Services AIDS/HIV Program reported that between 1998 and 2003, 372 new cases of HIV infection were diagnosed on average each year, and Dane County's annual average rate of infection is surpassed in the state only by Milwaukee County.
- (15) The total number of cases of genital chlamydia trachomatis infections in the United States reported in 2002 was 834,555, according to the Centers for Disease Control. However, under-reporting is substantial and it is estimated that 2,800,000 people become infected each year. See, e.g., Statistics of the United States Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov. See also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (16) In 2002, there were over 32,000 reported cases of syphilis in the United States, of which 6,862 cases were of primary and secondary syphilis, an increase of 12.4% from 2001. The rate of infection for males is 3.5 times that in women. See, e.g., Statistics of the United States Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
- (17) The number of cases of gonorrhea in the United States reported annually remains at a high level, with an estimated 700,000 infections occurring each year. See, e.g., Statistics of the United States Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
- (18) The Centers for Disease Control in July 1999 advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (19) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., Statistics of the United States Department of Health and Human Services, Centers for Disease

Control and Prevention at www.cdc.gov.

- (20) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (21) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view adult-oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (22) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., *Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).
- (23) Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See, e.g., *Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9th Cir. 1986).
- (24) Sexually oriented businesses have operation characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
- (25) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such licensing procedure will place an incentive for operators to see that the sexually oriented business is run in a manner consistent with health, safety, and welfare of its patrons and employees, as well as the citizens of the Village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (26) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.
- (27) The disclosure of certain information by those ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.
- (28) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that

conduct prohibited in this chapter and a sex-related crime is substantially related to the licensed activity of operating, owning or controlling a sexually oriented business.

- F. The United States Supreme Court and various federal and state courts have held that a local unit of government, such as the Village of Merrimac, may rely upon and incorporate by reference such findings and experiences into its own findings and legitimate concerns about the adverse and undesirable secondary effects arising from and pertaining to adult-oriented entertainment establishments, public nudity therein, crime, prostitution, gambling, littering, and other adverse secondary impacts described in this chapter, and jointly and severally use such findings and determinations of the United States Supreme Court in previous rulings as well, including but not limited to *Village of Erie v. Pap's A.M.*, 539 U.S. 277, 146 L. Ed. 2d 265, 120 S. Ct. 1382 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Village of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697 (1986); *Village of Newport, Ky v. Jacobucci*, 479 U.S. 92 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *California v. Larue*, 409 U.S. 109 (1972); *United States v. O'Brien*, 391 U.S. 367 (1968); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *DLS, Inc. v. Village of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Key, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On, Inc. v. Village of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *South Florida Free Beaches, Inc. v. Village of Miami*, 734 F.2d 608 (11th Cir. 1984); and *N.W. Enterprises v. Village of Huston*, 27 F. Supp. 2d 754 (S.D. Tex. 1998), as the basis for content-neutral regulation of such establishments and the behavior therein without affecting the substance of verbal or nonverbal speech, with the legitimate intent and goal of reducing or eliminating such negative secondary effects to as great a degree as possible.
- G. The Merrimac Village Board believes that the experiences, evidence and studies from the other cities and communities cited, set forth herein, and/or considered by the Village Board in whole, part or summary are relevant and important in understanding and addressing the secondary effects adult-oriented entertainment establishments can and do have upon neighborhoods, persons, economies, the areas surrounding such establishments and the Village of Merrimac.
- H. The Village Board of the Village of Merrimac relies upon the findings, studies, evidence and experiences of such other cities and communities and previous applicable United States Supreme Court and other federal and state court holdings and hereby adopts and incorporates such findings, studies, evidence, experiences and court rulings and holdings herein by reference as if fully set forth verbatim as part of its findings and basis for this chapter and its regulations.
- I. Adult-oriented establishments in proximity to residential areas, places of worship, parks, day-care centers and schools may and do often lead to an increase in criminal activities in the surrounding areas and the Village desires to protect the youth of the community from the deleterious effects such businesses can have on adjacent areas by restricting their close proximity to certain public and private uses and protect its citizens and residents from

increased crime as well as increased ordinance violations such as, but not limited to, disorderly conduct, drinking in public, possession of intoxicants by underage persons, public disturbances of the peace, littering, illegal drug use and sales, prostitution and gambling.

- J. Among these secondary effects described in greater detail above are:
- (1) The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - (2) The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
 - (3) Health risks associated with the wide spread of sexually transmitted diseases; and
 - (4) The potential for infiltration by organized crime for the purpose of unlawful conduct.
- K. The Village Board of the Village of Merrimac recognizes it lacks authority to regulate obscenity in light of § 66.0107(3), Wis. Stats., and does not intend by adopting this chapter to regulate obscenity, since nudity in and of itself is not obscene, and declare its intent to enact an ordinance addressing the secondary effects of live, totally nude, nonobscene, erotic dancing in bars, taverns and other adult-oriented establishments.
- L. The Village Board of the Village of Merrimac recognizes that the United States Supreme Court has held that nude dancing is expressive conduct 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 Village Board 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.
- M. The Village Board of the Village of Merrimac 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 Merrimac; protect the citizens from increased crime; preserve the equality of life; preserve the property values and character of surrounding neighborhoods; deter the spread of urban blight; and assure and facilitate health, welfare, peace, tranquility and good order of the Village of Merrimac and its residents and neighborhoods.
- N. The Village Board of the Village of Merrimac has determined that enactment of this chapter legitimately promotes the valid goals and intent of minimizing, preventing and controlling the negative and adverse secondary effects associated with such activities and does so in a content-neutral manner while preserving numerous other means of free expression while regulating only certain behavior in a uniform yet limited manner.
- O. The United States Supreme Court in the case of *Village of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41, 106 S. Ct., 925, 89 L. Ed. 2d 29 (1986) and *Young v. American Mini Theaters*, 427 U.S. 50, 96 S. Ct. 2440, 49 L. Ed. 2d 310 (1976) has approved efforts by local

governments to regulate the location of adult-oriented establishments through land use plans.

- P. A reasonable regulation of the location of adult entertainment establishments will provide for the protection of the image of the community and its property values and protect the residents of the community from the adverse secondary effects of an adult-oriented establishment, while providing to those who desire to patronize adult-oriented establishments such an opportunity in areas within the Village which are appropriate for a location of adult-oriented establishments while reasonably regulating the disorderly effects of public nudity as herein defined.
- Q. Pursuant to the Village of Merrimac's authority, and in furtherance of the legitimate and reasonable health, welfare, peace, tranquility, safety, good order, police power interest, intent, goals and content-neutral objections of the Village Board as set forth in this chapter and related ordinances that find it is the intent of the Village Board to adopt by ordinance reasonable regulations, including licensing and restricting the location of adult-oriented establishments, as defined herein, to promote the Village of Merrimac's interest to protect and to preserve the quality of its neighborhoods and commercial and industrial districts and quality of urban life through effective land use planning, as well as the other legitimate governmental goals and objectives articulated and enumerated elsewhere in this chapter, all of such regulations are found the least intrusive.
- R. Although the provisions of this chapter have neither the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, the Village Board deems it to be in the interests of the Village of Merrimac to provide for licensing, regulation and zoning of adult-oriented establishments, including but not limited to adult bookstores, adult mini motion-picture establishments, adult motion-picture theaters and adult cabarets to combat and curb the adverse, undesirable and harmful secondary effects of such establishments.
- S. The proposed licensing, regulation and zoning ordinances jointly and severally serve and directly promote substantial and legitimate government interest and do not unreasonably limit alternative avenues of communication.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-2. Adoption.**

§ 42-2. Adoption.

Based upon the above findings and recitals, the Village Board of the Village of Merrimac hereby adopts this chapter and its various reasonable, content-neutral and legitimate governmental interest components, provisions, recreations, regulations and amendments.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-3. Definitions.**

§ 42-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADULT ARCADE -- Any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, videos, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE -- A commercial establishment that:

- A. As one of its principal or secondary business purposes (for purposes of this subsection, a principal or secondary business shall not include business purposes that constitute 10% or less of the business income) offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations, that depict or describe specified sexual activities or specified anatomical areas; or
 - (2) Instruments, devices, or paraphernalia that are designed for use with specified sexual activities.
- B. Has a facility or facilities, including but not limited to booths, cubicles, rooms or stalls, for the presentation of adult entertainment, as defined in this chapter, including adult-oriented films, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock-in-trade, for sale, rent, trade, lease, inspection or viewing, books, films, videocassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined herein.

ADULT CABARET -- A nightclub, bar, tavern, restaurant, cafe, or any other alcohol-licensed and/or non-alcohol-licensed commercial establishment, premises or property that regularly, commonly, habitually or consistently features:

- A. Persons who appear in a state of nudity of seminudity;
- B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;

- C. Films, motion pictures, videocassettes, slides, photographic reproductions, or other image-producing devices that are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
- D. Persons who engage in exotic or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers; or
- E. Features, provides, employs, displays, permits or allows live topless or bottomless, nude or partially nude dancers, strippers, performers, male or female impersonators or similar entertainers.

ADULT ENTERTAINMENT -- Any exhibition of any motion picture, live performance, display or dance of any type that has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or the exposure of any specified anatomical areas as herein defined.

ADULT ENTERTAINMENT ESTABLISHMENT -- See "adult-oriented establishment."

ADULT ENTERTAINMENT LICENSE -- A license required and issued under this chapter.

ADULT MINI MOTION-PICTURE THEATER -- An enclosed building with a capacity of fewer than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to actual or simulated specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.

ADULT MOTION-PICTURE THEATER -- An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or characterized by an emphasis on matters depicting, describing or relating to actual or simulated specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.

ADULT-ORIENTED ESTABLISHMENT

- A. Any premises, property, establishment, site, building, location, or part or portion thereof, including but not limited to adult arcades, adult bookstores, adult video stores, adult entertainment establishments, adult motion-picture theaters, adult mini motion-picture establishments, or adult cabarets, and those locations in which any person directly or indirectly engages in, permits, employs, solicits, offers, produces, gives, displays, presents, conducts and/or provides live or recorded nude or seminude dancing, singing, performances, exhibits and/or activities.
- B. It further includes any premises or business to which public patrons or members are invited or admitted with or without fee or charge:
 - (1) That are so physically constructed or arranged as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures; and/or
 - (2) Wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, and/or live adult entertainment of any kind occurs, whether or not such

adult entertainment is held, conducted, operated, offered, provided or maintained for remuneration or a profit, direct or indirect.

- C. "Adult-oriented establishment" further includes without being limited to any adult entertainment studio or any premises that is physically arranged and used as such whether or not advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

BOOTHES, CUBICLES, ROOMS, COMPARTMENTS or STALLS

- A. Enclosures that are specifically offered to the public or members of an adult-oriented establishment for hire or for a fee as part of a business operated on the premises that offers as part of its business the adult entertainment to be viewed within the enclosure. This shall include, without limitation, all enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure.
- B. Exceptions. "Booth," "cubicle," "room," "compartment" or "stall" shall not mean or include such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee and are not open to any persons other than employees, nor shall this definition apply to private motel and hotel sleep rooms, boardinghouse rooms, private residences and places of abode, or other similar establishments licensed by the State of Wisconsin pursuant to Ch. 50, Wis. Stats., as from time to time amended or renumbered.

GENITALS -- The visible and related human sex organs, including but not limited to the penis, testicles and vulva.

NUDITY or STATE OF NUDITY -- The intentional or knowingly showing or revealing of a human bare buttock, anus, perineum, anal region, anal or natal cleft or cleavage, pubic area, male genitals, testicle, female genitals, or vulva, or female nipple, female areola, or female breast below the point immediately above the top of the areola, whether or not in a state of sexual stimulation or arousal, with less than a fully opaque covering, or the showing or revealing of human male genitals in a discernible erect or turgid state, even if completely and opaquely covered.

OPERATOR -- Any person, partnership, corporation, limited liability company, limited liability partnership, joint venture, assembly, organization or legal or other entity, of whatever kind or nature, whether for profit, nonstock or nonprofit, and includes the agent, person in charge, manager and/or other principal, that owns, leases, rents, possesses, operates, conducts, maintains, manages, oversees in any capacity or manner, or acts as a principal of any adult-oriented establishment or adult entertainment establishment or who by law or operation of facts directly or vicariously is, acts or holds him/herself out to be an operator and/or responsible for the adult entertainment establishment and the activities occurring therein.

PERSON -- Includes but is not limited to an operator, other legal entity, patron, employee, performer or other natural person.

PRIVATE VIEWING -- Viewing by one person in a separate room, booth, cubicle or facility.

SPECIFIED ANATOMICAL AREAS -- Include:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, perineum, anal region, natal or anal cleft, female nipples, female areola, and female breasts below the point immediately above the top of the areola.
- B. Human male genitals in a discernible erect or turgid state, even if opaquely covered.

SPECIFIED SEXUAL ACTIVITIES -- Include:

- A. Actual or simulated:
 - (1) Showing or revealing of his or her human genitals, the pubic region, perineum, anal region, natal or anal cleft, female nipples, or female areola, whether or not in a state of sexual stimulation or arousal, with less than a fully opaque covering.
 - (2) Showing of acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus.
 - (3) Fondling or touching of human genitals, the pubic region, perineum, anal region, natal or anal cleft, female nipples, or female areola, whether of himself, herself or another.

TURGID -- Swollen, in a state of distension, or erect.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-4. License required.**

§ 42-4. License required.

- A. Except as exempted elsewhere in this chapter, no adult-oriented establishment or adult entertainment establishment shall be operated or maintained in the Village of Merrimac by any person without first obtaining and holding an annual adult entertainment license to operate issued by the Village.
- B. An adult entertainment license may be issued only for one adult entertainment or adult-oriented establishment located at a fixed and certain place. Any person who desires to operate more than one adult entertainment or adult-oriented establishment must have a separate annual license for each location and site.
- C. No license or interest in a license may be transferred from person to person or from place to place.
- D. No license under this chapter may be issued for any property or business not zoned for adult entertainment establishments in the Village.^{EN(32)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-5. License procedure.**

§ 42-5. License procedure.

- A. The Village Board may issue adult entertainment establishment licenses, which licenses shall be granted only upon application, in writing, on forms provided by the Village Administrator and upon fulfilling the requirements of this chapter. Such license is only valid for operation within the limits of the Village.
- B. The application shall include the information required by this chapter and shall be submitted on a form provided by the Village Administrator.
- C. Each fully completed application shall be signed and dated by the applicant or a duly appointed agent for the applicant before a notary public and filed with the Village Administrator together with all diagrams and other information required by this chapter.
- D. The original and renewal license fee(s) shall be paid by the applicant at the time the license is issued by the Village Administrator and shall be contingent upon the payment of all outstanding fees owed to the Village of Merrimac.
- E. Each applicant for a license shall furnish the following information:
 - (1) Applicant's legal name, current address, and home phone number, if any.
 - (2) Written proof that the individual is at least 18 years of age.
 - (3) The street address of the adult-oriented establishment to be operated by the applicant.
 - (4) If the applicant is other than a natural person, the application shall specify the name of the entity; the date and state of incorporation or registration; the name and address of the registered agent; the names of all principals, officers, directors, members, and general partners; the names of all managers and persons in charge; and the names of all shareholders who will directly and regularly participate in the management of the business.
 - (5) The trade or other name under which the establishment is to be operated.
 - (6) A general description of the services to be provided.
 - (7) The expected startup date it will be open to the public.
- F. Every applicant shall provide with the application:

- (1) A sketch or diagram showing an accurate configuration of the premises sought to be licensed, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a reasonable designated scale with marked dimensions of the interior of the premises that are reasonably accurate.
 - (2) Certified copy of domestic articles of incorporation or registration or, if a foreign entity, a certified copy of authority to do business in this state, together with all amendments thereto.
 - (3) True and correct photocopy of proof of ownership to the property where the establishment is located and/or of a legal right to lease, possess and use such property/location with the owner's signature.
 - (4) An accurate diagram showing that the location for which application is being made satisfies all zoning and distancing requirements of this chapter and related ordinances.^{EN(33)}
- G. All questions on each application must be completed truthfully and in full in order to be processed. No license under this chapter may be issued unless the application is complete on its face with all questions answered and required information provided. An incomplete application may be rejected and not processed by the Village Administrator and no license shall be issued for an incomplete application.
- H. Within 10 business days, every applicant has an affirmative duty to supplement an application with new information received or occurring subsequent to the date that the application was originally submitted, including all renewals thereof.
- I. A photocopy of the filed application shall be distributed promptly by the Village Administrator to the Sauk County Sheriff's Department, Plan Commission, and to the Court Clerk to conduct an investigation of the application. The Clerk shall also provide a photocopy of the application to the applicant upon request.
- J. The Sauk County Sheriff's Department, the Village Plan Commission and the Court Clerk must provide information relevant to the new or renewal application to the Village Administrator within 10 working days.
- K. The Sauk County Sheriff's Department shall make an investigation of the applicant to determine whether the applicant possesses the qualifications necessary for granting a license under this chapter. In the case of a corporation, the agent and all corporate officers will be investigated as under Chapter 83 of the Village Code, relating to alcohol beverages. All partners will similarly be investigated if the application is for a partnership. The Sauk County Sheriff, or his or her designee, shall report his or her findings to the Village Administrator

and Village Board.

- L. The Village Administrator shall make an investigation of the applicant to determine whether the applicant requests a license for an establishment in accordance with the zoning provisions of this chapter and Chapter 185 of the Village Code. The Village Administrator shall report his or her findings to the Plan Commission and Village Board.
- M. The Village Administrator and Court Clerk shall determine whether there are any outstanding fees owed to the Village of Merrimac. All outstanding fees, including but not limited to real estate taxes, personal property taxes, utility bills, special assessments, any invoices due to the Village of Merrimac, fines for any violations (including parking tickets), and any outstanding warrants, must be paid in full and satisfied prior to the application being approved.
- N. The Plan Commission and Village Administrator shall make a report and recommendation to the Village Board as to whether the application should be granted, conditioned or denied.
- O. No license may be granted until and unless the Village Board, by a majority vote of those members present and voting, has authorized granting the license.
- P. To the extent reasonably possible, within 45 days of receiving a fully completed, executed, dated, and notarized application with all required attachments and addenda thereto for a new license or an application to renew a license, or as soon as reasonable thereafter, the Village Administrator shall notify the applicant whether the application is granted, conditioned or denied by the Village Board and if denied the reasons therefor.
- Q. Failure or refusal of the applicant to provide information required by the application or this chapter; execute and date the application; file a fully complete and truthful application with all attachments and documentation required by this chapter; supplement information previously provided as required by this chapter; or appear at a reasonable time or place for examination under oath regarding such application shall each constitute an admission and acknowledgement by the applicant that s/he is ineligible for such license and the same shall be grounds for administrative denial thereof by the Village Administrator. Such acts may also form the basis for suspension, revocation or nonrenewal of the license by the Village Board after a hearing in the manner provided for in this chapter.
- R. The issuance of a license under this chapter is a privilege and not a right.
- S. Upon expiration, revocation, suspension or nonrenewal of a license issued under this chapter, the issued license shall revert back and be immediately returned to the Village.
- T. Prior to issuance of a license under this chapter, the premises shall be inspected by the appropriate Village code, police and fire officials and county and state health officials. No license may be issued unless and until the premises satisfies every applicable Village, county

and state ordinance and code provision for building, plumbing, fire, electric, HVAC, zoning, parking, health, sanitation, and related laws. Those responsible for such inspections shall inform the Village Administrator.

- U. A new and renewal license issued under this chapter shall state on its face the name of the person or entity to whom or to which it is granted, the date of issuance, the date it expires and the address of the establishment and contain the Village Administrator's signature.
- V. Renewal applications need not be accompanied by the requirements set forth in this section except for signature and dating before a notary and the payment of the fee, unless there is a change requiring new or supplemental documentation, in which event such must be provided by the renewing applicant at the time the renewal is submitted. Failure to provide such required information and documentation may alone be sufficient grounds for denial of a renewal application.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-6. Standards for issuance of license.**

§ 42-6. Standards for issuance of license.

- A. To be issued a new license to operate an adult entertainment establishment, an applicant must meet the following standards:
 - (1) If the applicant is a natural person/individual:
 - (a) The applicant must be at least 18 years of age.
 - (b) The applicant shall not have been found to have previously violated any provision of this chapter within five years immediately preceding the date of the application.
- B. The Village Administrator shall issue a license to the applicant if all of the requirements of this chapter are timely and fully satisfied.
- C. The Village Administrator shall not issue a license to the applicant if all of the requirements of this chapter are not timely and fully satisfied, including but not limited to any of the following:
 - (1) The applicant has failed to provide the information required by this chapter.
 - (2) The applicant has falsely answered a question or request for information on the application form or required documentation, sketch(es) or diagram(s), within the last six months.

- (3) The applicant, if a natural person or principal, officer, director or member, is under the age of 18 years.
- (4) The property is not properly zoned.
- (5) The premises fails any inspection required by law.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-7. Fees.**

§ 42-7. Fees.

- A. A license fee in the amount set forth in the Village Fee Schedule shall be paid for a new or renewal license at the time that the license is issued by the Village Administrator.^{EN(34)}
 - (1) There shall be no proration of a new license fee.
 - (2) There shall be no proration or refund upon any suspension, revocation or voluntary surrender of a license.
 - (3) A new license application and fee are required for each separate new location and upon any change of ownership involving 10% or more beneficial or actual change in ownership interest in the establishment.
 - (4) In addition to the renewal fee, a late penalty as is provided in Chapter 1, § 1-4 of this Code shall be assessed against and paid by any applicant who files an annual renewal application after July 1.
- B. A new license applied for under this chapter prior to July 1 shall be effective and not require renewal or the payment of a renewal fee until August 31 of the ensuing year.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-8. Display of license.**

§ 42-8. Display of license.

The license issued under this chapter shall be displayed in a conspicuous public place in the adult entertainment or adult-oriented establishment.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

**PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-9. Renewal of license.**

§ 42-9. Renewal of license.

- A. Every license issued pursuant to this chapter, regardless of when issued during the year, shall terminate annually on August 31, unless sooner revoked or nonrenewed, and must be timely renewed before operation is allowed in the following year.
- B. Any operator desiring to renew a license shall make application to the Village Administrator. The application for renewal must be filed not later than July 1.
- C. If the Sauk County Sheriff or Plan Commission is aware of any information bearing on the zoning of the property or on the operator's qualifications, that information shall be filed in writing with the Village Administrator.
- D. The building and fire inspectors shall inspect the establishment prior to the renewal of a license to determine compliance with the provisions of this chapter and related codes.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-10. Prohibited acts.**

§ 42-10. Prohibited acts.

- A. License required. No person may own, lease, rent, possess, operate, conduct, maintain, manage, permit, oversee in any capacity within the Village or manner, act as a principal or agent of any adult-oriented establishment or adult entertainment establishment, or use any real property or part thereof in the Village for adult-oriented entertainment activities or as an adult-oriented entertainment establishment without first applying for, paying the fee for, being issued and holding a current and valid license required by this chapter.
- B. Nudity prohibited in alcohol-licensed establishments. No person, with or without consideration, may perform or engage in, or be in a state of undress, and no operator, licensee, manager, agent, principal or person in charge of a premises of the licensee shall permit any entertainer, employee, patron or other person to perform or engage in any live act, live demonstration, live performance, live dance, or live exhibition or to be in a state of undress upon the premises or property of an establishment that is or should be licensed as an alcohol-licensed establishment, that:
 - (1) Shows or exposes his or her genitals, pubic area, vulva, perineum, anus, or natal or anal cleft with less than a complete and fully opaque covering;

- (2) Shows or exposes any portion of the female nipple, areola or breast below a point immediately above the top of the areola with less than a complete and fully opaque covering; or
 - (3) Shows the covered male genitals in a discernibly turgid state.
- C. No minors allowed. No operator, employee, manager, agent, or other person in charge of an establishment, premises or property that is or that should be licensed under this chapter may allow or permit any minor (a person under 18 years of age) to enter, be present upon or loiter on or near the facility or to view adult-oriented entertainment or specified sexual activities.
- D. No touching of or by patrons or performers. No person who is an entertainer, employee or patron may knowingly or intentionally, and no licensee, operator, manager, agent, principal or other person in charge of a premises or establishment may knowingly or intentionally permit any entertainer, employee, patron or other person to, touch or come in contact with the genitals, perineum, anus, anal region, pubic area, vulva, or natal or anal cleft of any other person, or the breasts, nipples or areola of any female, upon the premises, property or establishment that is or should be licensed under this chapter.
- E. Hours of operation. No licensee, operator or other person who owns, operates, manages, is the agent for, or is in charge of an establishment that is or should be licensed under this chapter may conduct, permit or keep open or operate any adult-oriented activity:
 - (1) Between the hours of 1:00 a.m. and 8:00 a.m. Monday through Friday; and
 - (2) Between the hours of 1:00 a.m. and 8:00 a.m. Saturday and Sunday mornings.
- F. No establishment, premises or property for which a license is issued, or for which a license is required under this chapter, may be located or operated contrary to any zoning, distancing, land use or other requirements set forth in this chapter or any related Village zoning or other ordinance.^{EN(35)}
- G. No person may violate any provision of this chapter.
- H. No person may cause, facilitate or combine with another person to violate any provision of this chapter or related law or ordinance.
- I. Certain activities prohibited.
 - (1) No person, with or without consideration, may perform or engage in, and no operator, licensee, manager, agent, principal or person in charge of a premises of the licensee may permit any entertainer, employee, patron or other person to perform or engage in, any act of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus upon the premises or property of an establishment that is

or should be licensed under this chapter.

- (2) No nude or seminude entertainer or employee shall be visible from outside the licensed premises.
- (3) No employee or entertainer of the licensed premises shall in any manner orally encourage or solicit any other person to come into the premises on the basis of the entertainment or service policies of the establishment.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-11. Responsibilities of operator and persons in charge.**

§ 42-11. Responsibilities of operator and persons in charge.

- A. Each operator, licensee, person in charge, manager, agent and principal shall be at least 18 years of age or older and shall comply with and obey every federal and state law, ordinance, code, rule and regulation at all times upon and within the immediate vicinity of the licensed facility.
- B. The owner, licensee, operator and person in charge shall be responsible to ensure that the premises is maintained in a clean and sanitary manner at all times.
- C. The owner, licensee, operator and person in charge shall be responsible to ensure that the premises is maintained with at least 10 footcandles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles; provided, however, that at no time shall there be less than one footcandle of illumination in said aisles, as measured from the floor.
- D. The owner, licensee, operator and person in charge shall ensure compliance of the establishment and its patrons with each of the provisions of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-12. Exemptions.**

§ 42-12. Exemptions.

Exempt from the applicability of the provisions of this chapter are the following: theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances

of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of nudity or of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees or others engaging in nude erotic dancing or nudity.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-13. Zoning and location restrictions. EN**

§ 42-13. Zoning and location restrictions. EN(36)

An adult entertainment establishment as defined in this chapter and the Code of the Village of Merrimac shall be a permitted use in the A-1 Agriculture District or I-1 Industrial District. All pertinent general or district zoning restrictions shall apply. In addition, no permit may be granted for an adult entertainment establishment unless it shall be located at least 1,320 feet from:

- A. The boundaries of residential districts.
- B. Any property within the Village used for residence, place of worship, municipal park land, conservancy, day-care center that is licensed for eight or more children or school purposes.
- C. The property line of any other adult entertainment establishment.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-14. Suspension, revocation and nonrenewal of license.**

§ 42-14. Suspension, revocation and nonrenewal of license.

- A. The Village Board may revoke, suspend or refuse to renew a license for any one or more of the following reasons:
 - (1) Discovery that false or misleading information or data was given on any new or renewal application or material facts were omitted from any such application.
 - (2) The operator violated any provision of this chapter or any rules or regulations adopted by the Village Board pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days in the event that the Village Board finds that the operator (as defined) had no prior actual or constructive knowledge of the underlying facts for such violation and could not have had such actual or constructive

knowledge by the operation of due diligence.

- (3) The operator becomes ineligible to obtain a license.
 - (4) Failure to pay any cost or fee required under this chapter or any other provision of law or ordinance.
- B. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- C. The Sauk County Sheriff, or his or her designee, may file charges against an operator or licensee for violation(s) of this chapter. Such charges shall be in writing and shall be signed and dated by the filing complainant who shall legibly provide his or her full name, address, and phone number and with reasonable particularity describe the violation(s). A failure by a complainant to provide any of this information renders the complaint insufficient. A determination whether the filed written charges satisfy these requirements shall be made by the Village Administrator before proceeding further. No action shall be pursued by the Village upon an anonymous complaint unless independently verified by the Sauk County Sheriff, in which event the complaint may be signed, dated and filed by the Sauk County Sheriff.
- D. Upon receipt of such written filed charges, the Village Administrator shall provide copies to the Sauk County Sheriff, Plan Commission, Village Board and Village Attorney and shall provide written notice of such charges to the operator. Service upon the operator, agent, any officer, director, partner or member shall be sufficient for service upon the operator if service is made in the manner provided under Ch. 801, Wis. Stats., for service in civil action in civil court.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-15. Appeals; hearing on charges.**

§ 42-15. Appeals; hearing on charges.

- A. The operator in writing may request a hearing concerning the charges if the operator files a written request with the Village Administrator within 10 days of the operator's receipt of notice of the violation(s). The hearing shall be held before the Plan Commission (referred to herein as "Commission"), unless the Village Board directs that the hearing shall be held before the Village Board. If the operator fails to timely request such a hearing, the charges shall be deemed proven and true in any proceeding before the Commission or the Village Board concerning the license issued under this chapter, and if the Commission or Village Board finds the charges sufficient the license shall be revoked, suspended or not renewed.

- B. If the operator timely requests a hearing on the charges as set forth above, a public hearing shall be held within 30 days after receipt of the written request by the Village Administrator.
- C. The Village Administrator shall provide not less than 10 days' prior written notice of the hearing date, time and place to the appealing operator, the complainant who filed charges, the Sauk County Sheriff, Village President and Village Attorney. Service upon the operator, agent, any officer, director, partner or member shall be sufficient for service upon the operator if service is made in the manner provided under Ch. 801, Wis. Stats., for service in civil action in civil court.
- D. The Village Administrator shall prepare and provide the proper legal notices of the public meeting, the closed session deliberations, and the reconvening into open session to determine the sufficiency of the charges and any applicable penalty. The Village Administrator shall also arrange for and provide that the hearing be recorded in some customary manner.
- E. All parties may appear at the hearing, be represented by legal counsel, present evidence and witnesses in their respective behalf, cross-examine witnesses, and make opening and closing arguments. The length of either opening and closing arguments by a party shall not exceed 15 minutes.
- F. The filed written charges shall form the basis of the complaint against the operator who must respond to the allegation(s) set forth therein.
- G. Refusal or failure by an operator to appear at the hearing shall be sufficient grounds to find the charges proven and true for all purposes.
- H. The hearing shall be open to the public. The hearing shall be recorded. The hearing is a quasi-judicial process. A quorum is necessary to conduct a hearing. A hearing may be continued from time to time upon mutual agreement of the parties or upon a majority vote of the members attending and voting. At the conclusion of the hearing, the governmental body before whom the hearing is held may convene into closed session to deliberate upon the record and then reconvene into open session to make its determination. A majority vote of all members present and voting shall be necessary to carry any motion or to make any determination. For all voting purposes, an abstention or pass is not a vote. Decisions of the governing body can be conditioned or made contingent. The governing body must first determine if the charge(s) is (are) proven and true. If so found, then the governing body shall decide what, if any, appropriate penalty or remedy should be imposed concerning the license for the proven violation(s). Imposition of the Village's costs and expenses arising from such proceeding by the governing body against an operator found to be in violation of this chapter is discretionary. If imposed, such costs and expenses must be paid in full by the operator to the Village Administrator within 10 days of the conclusion of the hearing.
- I. The hearing shall be recorded. Either party may request and obtain a copy of the hearing in written form upon payment of the estimated transcribing fee therefor in advance and is

obligated to pay the actual cost thereof upon completion. As an alternative to providing such written transcript, the Village Administrator may provide a true and correct complete copy of the audio tape of the hearing.

- J. The governing body shall reduce its decision to writing within 20 days of the end of the hearing and provide true and correct copies of its decision to the operator, complainant, Sauk County Sheriff, Village Administrator, Village Board and Village Attorney and shall briefly set forth the reasons for its decision in such written notice. Service upon the operator, agent, any officer, director, partner or member shall be sufficient for service upon the operator if service is made in the manner provided under Ch. 801, Wis. Stats., for service in civil action in civil court. If the hearing is held before the Commission, the decision shall be a findings of fact, conclusions of law, and recommendation as to what action, if any, the Village Board should take with respect to the license. If the hearing is held before the Village Board, the decision shall be a findings of fact, conclusions of law and a determination of the action, if any, to be taken with respect to the license.
- K. If the hearing is held before the Commission, the Commission shall submit its decision to the Village Board. Either the complainant or the operator may file an objection to the Commission's decision and shall have the opportunity to present written and oral arguments supporting the objection to the Village Board. If the Village Board, after considering the Commission's decision and any arguments presented by the complainant or operator, finds the complaint to be true, or if there is no objection to the a decision recommending suspension, nonrenewal or revocation, the license shall be suspended, nonrenewed, or revoked. If the Village Board determines that the allegations are untrue or if true are not grounds for suspension, nonrenewal or revocation, it shall dismiss the complaint.
- L. Appeal from the Village Board's determination shall be taken to Dane County Circuit Court pursuant to § 68.13, Wis. Stats. Judicial review shall be governed by § 68.13, Wis. Stats., all as from time to time amended or renumbered.
- M. If the operator makes a timely appeal, no suspension, revocation, nonrenewal or other conditions affecting the license shall take effect until a final determination is rendered by the Circuit Court, or as otherwise agreed by the Village and operator.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-16. Effect of revocation, suspension or nonrenewal.**

§ 42-16. Effect of revocation, suspension or nonrenewal.

- A. Under this chapter, any operator, person or licensee whose license is revoked or not renewed shall not be eligible to receive a license under this chapter for two years from the date of

revocation or nonrenewal.

- B. No location or premises for which a license has been issued shall be used or licensed as an adult-oriented establishment or adult entertainment establishment for six months from the date of revocation or nonrenewal of the license.
- C. In a zoning district in which a use licensed under this chapter is a nonconforming use under the zoning provisions of this Village,^{EN(37)} no location or premises for which a license has been issued under this chapter shall be used as an adult entertainment establishment or adult-oriented establishment if more than one year elapses from the date the nonrenewal or revocation of the license takes effect. For purposes of this subsection, a nonrenewal of a license takes effect when the licensed premises is no longer lawfully licensed due to annual expiration of the license without renewal, revocation, or for any other reason.
- D. Revocation(s), suspension(s), nonrenewal(s) and/or nonissuance(s) may be subject to such additional reasonable restrictions, conditions and regulations as the Village Board may impose.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 42, ADULT ENTERTAINMENT
ESTABLISHMENTS / § 42-17. Violations and penalties.**

§ 42-17. Violations and penalties.

- A. Any person who violates any of the provisions of this chapter shall forfeit and pay to the Village a penalty as set forth as provided in Chapter 1, § 1-4 of this Code.
- B. If any person is in default of the payment of such forfeiture, such person shall be subject to the remedies vested in the court for such nonpayment.
- C. In addition to and not in lieu of any of the penalties and remedies set forth in this chapter, the Village Board may conduct a hearing to revoke, suspend, not renew and/or not issue a license under this chapter and/or alcohol license(s), as applicable.
- D. In addition to and not in lieu of the penalties and remedies set forth in this chapter, the Village may seek, obtain and enforce one and/or more forms of injunctive and other equitable and/or legal relief against the licensee and/or applicable person(s) for said violation(s).

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS**

Chapter 47, ANIMALS

[HISTORY: Adopted by the Village Board of the Village of Merrimac as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances -- See Ch. 97.

Peace and good order -- See Ch. 102.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE I, Keeping of Animals and Fowl [Adopted as §§ 10.05 and 10.15 of the Village Code]

ARTICLE I, Keeping of Animals and Fowl [Adopted as §§ 10.05 and 10.15 of the Village Code]

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE I, Keeping of Animals and Fowl [Adopted as §§ 10.05 and 10.15 of the Village Code] / § 47-1. Sanitary requirements.

§ 47-1. Sanitary requirements.

All structures, pens, buildings, stables, coops or yards wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors. Interior walls, ceilings, floors, partitions and appurtenances of such structures, except structures or houses occupied by no more than one dog, cat, rabbit, skunk or similar animal kept as a pet, shall be whitewashed or painted annually or more often as the Village Board shall direct.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE I, Keeping of Animals and Fowl [Adopted as §§ 10.05 and 10.15 of the Village Code] / § 47-2. Animals excluded from food-handling establishments.

§ 47-2. Animals excluded from food-handling establishments.

No person shall take or permit to remain any dog, cat or other live animal on or upon any premises

where food is sold, offered for sale or processed for consumption by the general public.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE I, Keeping of
Animals and Fowl [Adopted as §§ 10.05 and 10.15 of the Village Code] / § 47-3.
Violations and penalties.**

§ 47-3. Violations and penalties.

The penalty for violation of any provision of this article shall be a penalty as provided by Chapter 1, § 1-4 of this Code. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General
Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village
Code)]**

**ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B
(§ 11.04 of the Village Code)]**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General
Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village
Code)] / § 47-4. Purpose.**

§ 47-4. Purpose.

The purpose of this article is to promote the health, safety and general welfare of this community by:

- A. Regulating and controlling the number of animals per residence;
- B. Requiring the removal of animal defecation from public property; and
- C. Requiring dogs and other animals to be cared for in such a manner that they will not become a public nuisance.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General**

Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-5. Pound Master. EN

§ 47-5. Pound Master. EN(38)

- A. The Village Administrator shall assume the duties and responsibilities of the Pound Master.
- B. The Pound Master shall:
 - (1) Capture and impound all dogs and cats running at large in violation of the provisions of this article and impound the same in a proper and suitable place therefor.
 - (2) Make a reasonable effort to ascertain the owner of said dog or cat and, if ascertained, notify said owner personally of the fact of the impounding of said animal. If the owner cannot be ascertained with reasonable effort, the animal shall be turned over to the Sauk County Humane Society.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-6. Dogs and cats at large. EN

§ 47-6. Dogs and cats at large. EN(39)

- A. Dogs and cats are not permitted to be at large in the Village of Merrimac at any time. Dogs and cats are at large when the animal is in any public street, alley, park or other public grounds or when off the premises of the owner or person who has custody of said animal and not constrained by a leash or under the immediate control of the owner or the person who has custody of said animal, the only exception being if within one hour after an animal escapes from either the owner or the person having custody of the animal, the owner or custodian of the animal reports the escape of said animal to the Village Municipal Office.
- B. Any person who shall permit any dog or cat to run at large in the Village of Merrimac in violation of this section shall, upon conviction thereof, be subject to a penalty as provided by Chapter 1, § 1-4 of this Code, together with costs of prosecution.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-7. License requirement for dogs and cats.

§ 47-7. License requirement for dogs and cats.

- A. Every owner of a cat or dog more than five months of age on January 1 of any year, or five months of age within the license year (the word "owner" when use herein in relation to possession of cats or dogs includes every person who owns, harbors or keeps a cat or dog), shall annually or with the payment of personal property taxes pay a cat or dog license tax and obtain a license therefor. Such cat or dog license tax shall be as provided on the Village Fee Schedule.^{EN(40)}
- B. Whenever any unlicensed dog or cat is seized and impounded, as herein provided, one of the conditions of its redemption shall be the purchase of a license for said cat or dog by the owner thereof.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-8. Public park or school grounds.

§ 47-8. Public park or school grounds.

An owner or person having control of any dog or any other animal shall not permit said dog or other animal to enter into or be upon any public park or school grounds unless the dog or animal is leashed and within the immediate control of the owner or custodian of the animal.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-9. Removal of defecation from public and private property.

§ 47-9. Removal of defecation from public and private property.

- A. An owner or person having custody of any dog or any other animal shall not permit said dog or any other animal to defecate on any school ground, public street, alley, sidewalk, tree bank, park or any other public grounds or any private property within the Village of Merrimac, other than the premises of the owner or person having custody of said dog or any other animal, unless said defecation is removed immediately.
- B. Any person who violates this section shall, upon conviction thereof, be punished by a fine as provided by Chapter 1, § 1-4 of this Code, together with costs of prosecution.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General
Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village
Code)] / § 47-10. Restriction on number of dogs and cats.**

§ 47-10. Restriction on number of dogs and cats.

- A. Not more than two dogs and two cats shall be allowed in any residence or apartment.^{EN(41)}
- B. The owner or person who has custody of a dog or cat may retain the puppies or kittens born of said dog or cat, exceeding the permissible numbers set forth in Subsection A, for 12 weeks after the birth of the animals. If, after that time, there are more than two dogs and two cats in any one residence or apartment, the owner or person in custody of the dogs or cats will be in violation of Subsection A.
- C. Any person who lawfully owned more than two dogs or two cats prior to the enactment of this article may retain his animals, provided that he retains a special permit from the Pound Master, with the approval of the Village Board. The special permit shall be for a term of one year, and no renewal shall be issued without a subsequent inspection. If for any reason an animal is lost, sold, given away or dies and there still remains in the residence or apartment more than two dogs and two cats there can be no replacement of the lost, sold, gifted or deceased animal. A special permit shall be issued if after an inspection it is determined by the pound master that:
 - (1) The animals in the owner's possession are not creating a nuisance;
 - (2) There is adequate waste disposal; and
 - (3) There is no hazard to public safety, health and welfare.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General
Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village
Code)] / § 47-11. Kennels.**

§ 47-11. Kennels.

- A. Any individual who obtains a special permit to operate a kennel for business or profit is exempt from the requirements of § 47-10. The special permit shall be obtained from the Pound Master after an inspection, approval of the Village Board, and determination that:
 - (1) The kennel shall be maintained in clean and sanitary condition, devoid of all rodents,

vermin and objectionable odors;

- (2) The interior walls, ceilings, floors, partitions and appurtenances of all such structures shall be whitewashed or painted annually or more often as the Village Board or Pound Master shall direct;
- (3) The kennel is not a health hazard or nuisance;
- (4) The kennel complies with all applicable zoning laws; and
- (5) The kennel is not a hazard to the public safety or general welfare.

B. The Pound Master or Village Board, upon complaint of any individual, shall inspect the kennel and issue any such order as may be necessary to carry out the provisions of this section.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-12. Dogs creating nuisances.

§ 47-12. Dogs creating nuisances.

- A. No person shall own, keep, have in his possession or harbor any dog which, by frequent or habitual howling, yelping, barking or otherwise, shall cause serious annoyance or disturbances to any individual or to the neighborhood, provided that this subsection shall not apply to premises occupied or used by the Village Pound.
- B. Individuals may be prosecuted pursuant to this section if a verified complaint signed by a least three residents of the Village of Merrimac is filed with the Village Administrator providing that a particular animal is habitually barking, howling, yelping and disturbing the individuals signing the verified complaint and creating a nuisance to the neighborhood.^{EN(42)}
- C. Upon conviction under this section there shall be a forfeiture as provided by Chapter 1, § 1-4 of this Code.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-13. Special permit required for certain animals.

§ 47-13. Special permit required for certain animals.

- A. No horse, mule, donkey, pony, cow, goat, sheep, pig, chicken, other agricultural animals or animal raised for fur-bearing purposes shall be kept within the Village limits except in areas zoned as agricultural district, unless a special written permit therefor is issued by the Village Board after an inspection of the premises and a finding of fact to the effect that no nuisance will be created thereby. Such special permit shall be issued for the keeping of any such animals only where such animals were being lawfully kept on such lot prior to the enactment of this article. A permit shall be for the term of one year and no renewal shall be issued without a sufficient reinspection.^{EN(43)}
- B. Notwithstanding any restrictions or prohibitions of Subsection A, animals of any kind in any number may be kept for exhibition or amusement purposes provided permission is granted by the Village Board upon application duly made. The Village Board shall grant such permission for such period of time as it deems necessary, but only upon approval of the Village Board and Pound Master as to the location at which such animals are to be kept. All rules as to sanitation contained in §§ 47-14 through 47-17 shall govern the maintenance of the premises or buildings where such animals are kept.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-14. Facility housing animals other than dogs.

§ 47-14. Facility housing animals other than dogs.

- A. Every stable or other building wherein any animal listed in § 47-13 is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.
- B. Every such stable or other building occupied by authority of a special permit shall, if located within 200 feet of any tenement or apartment house, hotel, restaurant, boardinghouse, retail food store, building used for school, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which said creatures are kept, be provided with a watertight and flytight receptacle for manure, of such dimension as to contain all accumulations of manure, which shall be emptied sufficiently often and in such manner as to prevent its becoming a nuisance. Said receptacle shall be kept securely covered at all times except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate except in such receptacle.
- C. The Village Board or Pound Master shall, if it or he deems such measures necessary in order

to avoid a nuisance, require that any such building be screened tightly against flies, serviced with running water, serviced with adequate sewer removal and floored in such a manner as to be impervious to water, and such other measures shall be taken as may be necessary to ensure proper protection to public health and safety as conditions precedent to the issuance of any such special permit.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-15. Restriction on number of animals other than dogs and cats.

§ 47-15. Restriction on number of animals other than dogs and cats.

No more than two each of any other domestic or wild animals more than four months old shall be kept or housed on any premises within the Village limits, except in areas zoned as agricultural district. A special permit shall be issued for the keeping of any such creatures on any lot outside of the area zoned as agricultural district only when such animals were being lawfully kept on such lot prior to the enactment of this article. Such special permit shall be granted for the term of one year, and no renewal shall be granted without an inspection of the premises by the Village Board and finding of fact to the effect that no nuisance will be created thereby.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-16. Animals at large other than dogs and cats.

§ 47-16. Animals at large other than dogs and cats.

No person shall suffer or permit any domestic or wild animals of which he is the owner, caretaker or custodian to be at large within the Village of Merrimac. Any such creature shall be deemed to be at large when it shall be off the premises owned or rented by its owner and unaccompanied by the owner or an agent or employee of the owner, and such creatures may be impounded by the Village.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-17. Disposal of animal defecation.

§ 47-17. Disposal of animal defecation.

No defecation or manure shall be dumped or left on any street, alley or sidewalk nor on any portion of

the Village; provided, however, that this provision shall not be construed to prohibit the use of manure as fertilizer for lawns and gardens in keeping with ordinary and customary practices.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-18. Animals other than dogs creating nuisances.

§ 47-18. Animals other than dogs creating nuisances.

- A. No person shall own, keep, harbor or have in his possession any animal which causes a serious annoyance or disturbance to any individual or to the neighborhood.
- B. An individual may only be prosecuted pursuant to this section if a verified complaint is signed by at least three residents of the Village of Merrimac and filed with the Village Administrator providing that a particular animal is habitually disturbing the individuals signing the verified complaint and being a nuisance to the neighborhood.^{EN(44)}
- C. Violations of this section shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 47, ANIMALS / ARTICLE II, General Regulations [Adopted 1-7-1987 by Ord. No. 86-12-08B (§ 11.04 of the Village Code)] / § 47-19. Violations and penalties.

§ 47-19. Violations and penalties.

Any person who violates a section of this article for which a penalty is not specifically provided shall be fined as provided in Chapter 1, § 1-4 of this Code, together with the cost of prosecution.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES

Chapter 53, BICYCLES AND PLAY VEHICLES

[HISTORY: Adopted by the Village Board of the Village of Merrimac as § 4.05 of the Village Code; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 129.

Vehicles and traffic -- See Ch. 144.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-1. Responsibility of parent or guardian.**

§ 53-1. Responsibility of parent or guardian.

No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of §§ 53-2 through 53-6.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-2. Play vehicles on roadways.**

§ 53-2. Play vehicles on roadways.

No person riding upon any coaster, roller skates, sled, toboggan, go-cart, scooter or toy vehicle shall attach the same or himself to any vehicle upon a roadway or go upon any roadway except while crossing a roadway at a crosswalk. All-terrain vehicles and snowmobiles are required to follow the regulations of the Department of Natural Resources.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-3. Special rules applicable to bicycles.**

§ 53-3. Special rules applicable to bicycles.

Whenever a bicycle is operated upon a highway, the following rules apply:

- A. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- C. No person operating a bicycle shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handlebars.

- D. No person riding a bicycle shall attach himself or his bicycle to any vehicle upon a roadway.
- E. No person shall park a bicycle upon a street other than against the curb upon the roadway, or upon the sidewalk in a rack that has been provided for such purpose, or in a stand off the sidewalk.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-4. Riding bicycle on roadway.**

§ 53-4. Riding bicycle on roadway.

- A. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- B. Persons riding bicycles upon a roadway shall ride single file.
- C. Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
- D. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk area.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-5. Lamps and other equipment on bicycles.**

§ 53-5. Lamps and other equipment on bicycles.

No person shall operate a bicycle upon a highway during hours of darkness unless such bicycle is equipped with a lamp on the front emitting a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear so mounted and maintained as to be visible from all distances from 50 to 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-6. Motor-driven play vehicles.**

§ 53-6. Motor-driven play vehicles.

No motor-driven play vehicle unlicensed by the State of Wisconsin may be operated in the Village of Merrimac except in such areas as are specifically designated and marked for such use by said Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 53, BICYCLES AND PLAY VEHICLES /
§ 53-7. Violations and penalties.**

§ 53-7. Violations and penalties.

The first violation of the regulations for bicycles and play vehicles may result in the retention of the bicycle or other play vehicle by the Sauk County Sheriff for a period of 10 days, and for a second and subsequent convictions the parent or guardian shall be subject to a fine as provided by Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION**

Chapter 60, CABLE TELEVISION

[HISTORY: Adopted by the Village Board of the Village of Merrimac 11-13-2001.
Amendments noted where applicable.]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-1.
Short title.**

§ 60-1. Short title.

This chapter shall be known and may be cited as the "Merrimac Cable Television Franchise Ordinance," hereinafter "this chapter."

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-2.
Definitions and word usage.**

§ 60-2. Definitions and word usage.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the

meaning given herein. The term "may" is permissive; the term "shall" is mandatory.

BASIC SERVICE -- All subscriber services provided by the grantee in one or more service tiers, which includes the delivery of local broadcast stations and public, educational and government access channels. "Basic service" does not include optional program and satellite service tiers, a la carte services, or per-channel, per-program, or auxiliary services for which a separate charge is made. However, the grantee may include other satellite signals on the basic service tier.

CABLE SERVICE

- A. The transmission to subscribers of video programming or other programming services; and
- B. Subscriber interaction, if any, that is required for the selection or use of such video programming or other programming services.

CABLE SYSTEM or SYSTEM or CABLE TELEVISION SYSTEM -- A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

- A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- B. A facility that serves subscribers without using any public right-of-way;
- C. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Federal Cable Communications Policy Act, except that such facility shall be considered a cable system [other than for purposes of Section 621(c) of said Act] to the extent such facility is used in transmission of video programming directly to subscribers; or
- D. Any facilities of any electric utility used solely for operating its electric utility system.

CLASS IV CHANNEL -- A signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.

CONTROL or CONTROLLING INTEREST -- Actual working control or ownership of a system in whatever manner exercised. A rebuttable presumption of the existence of control or a controlling interest shall arise from the ownership, directly or indirectly, by any person or legal entity (except underwriters during the period in which they are offering securities to the public) of 40% or more of a cable system or the franchise under which the system is operated. A change in the control or controlling interest of a legal entity which has control or a controlling interest in a grantee shall constitute a change in the control or controlling interest of the system under the same criteria. "Control" or "controlling interest" as used herein may be held simultaneously by more than one person or legal entity.

CONVERTER -- An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber and by an appropriate channel selector also permits a subscriber to view more than 12 channels delivered by the system at designated converter dial locations.

DWELLING UNIT -- Any building or part of a building that is used as a home or residence.

FCC -- The Federal Communications Commission and any legally appointed, designated or elected agent or successor.

FRANCHISE -- An initial authorization, or renewal thereof, issued by the Village, as the franchising authority, to a grantee to construct or operate a cable system.

FRANCHISE AGREEMENT -- A contractual agreement entered into between the Village and any grantee hereunder that is enforceable by the Village and by the grantee and which sets forth the rights and obligations between the Village and the grantee in connection with the franchise.

GRANTEE -- A person or legal entity to whom or to which a franchise under this chapter is granted by the Village, along with the lawful successors or assigns of such person or entity.

GROSS REVENUES -- All revenue collected by the grantee arising from or attributable to the provision of cable service by the grantee within the Village, including but not limited to periodic fees charged subscribers for any basic, optional, premium, per-channel or per-program service; franchise fees; installation and reconnection fees; leased channel fees; converter rentals and/or sales; program guide revenues; late or administrative fees; upgrade, downgrade or other change in service fees; local advertising revenues; revenues from home shopping; and revenues from the sale, exchange, use or cable cast of any programming developed on the system for community or institutional use; provided, however, that this shall not include any taxes on services furnished by the grantee herein imposed directly upon any subscriber or user by the state, local or other governmental unit and collected by the grantee on behalf of the governmental unit.

INITIAL FRANCHISE -- The first franchise awarded to any entity.

INITIAL SERVICE AREA -- All areas in the Village having a density of at least 40 dwelling units per street mile.

INSTALLATION -- The connection of the system from feeder cable to a subscriber's terminal.

MONITORING -- Observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever, provided that monitoring shall not include system-wide, non-individually-addressed sweeps of the system for purposes of verifying system integrity, controlling return path transmissions, or verification of billing for premium or other services.

NORMAL BUSINESS HOURS -- As applied to the grantee shall mean those hours during which similar businesses in the Village are open to serve customers. In all cases, normal business hours must include some evening hours at least one night per week and/or some weekend hours.

NORMAL OPERATING CONDITIONS -- Those service conditions that are within the control of the grantee. Those conditions that are not within the control of the grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

PERSON -- Any natural person or any association, firm, partnership, joint-stock company, limited

liability company, joint venture, corporation, or other legally recognized entity, private or public, whether for profit or not for profit.

SERVICE INTERRUPTION -- The loss of either picture or sound or both for a single subscriber or multiple subscribers.

STREET -- The surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the Village for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the Village which shall, within their proper use and meaning, entitle the grantee to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

SUBSCRIBER -- Any person(s), firm, grantee, corporation or other legal entity or association lawfully receiving any service provided by a grantee pursuant to this chapter.

USER -- A party utilizing a cable television system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt thereof in a subscriber capacity.

VILLAGE -- The Village of Merrimac, Wisconsin.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-3.
Rights and privileges of grantee.**

§ 60-3. Rights and privileges of grantee.

Any franchise granted by the Village pursuant to § 66.0419, Wis. Stats., shall grant to the grantee the right and privilege to erect, construct, operate and maintain in, upon, along, across, above, over and under the streets now in existence and as may be created or established during the term of the franchise any poles, wires, cable, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation of a cable system.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-4.
Agreement; incorporation of application by reference.**

§ 60-4. Agreement; incorporation of application by reference.

- A. Upon adoption of any franchise agreement by the Village and execution thereof by the grantee, the grantee and the Village agree to be bound by all the terms and conditions contained herein.
- B. Any grantee also agrees to provide all services specifically set forth in its application, if filed,

and to provide cable television service within the confines of the Village, and by its acceptance of the franchise the grantee specifically grants and agrees that its application, if filed, is thereby incorporated by reference and made a part of the franchise.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-5.
Franchise territory.**

§ 60-5. Franchise territory.

Any franchise is for the legally incorporated territorial limits of the Village and for any area henceforth added thereto during the term of the franchise.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-6.
Acceptance and duration of franchise.**

§ 60-6. Acceptance and duration of franchise.

Any franchise and the rights, privileges and authority granted under this chapter shall take effect and be in force from and after final Village approval thereof, as provided by law, and shall continue in force and effect for a term of no longer than 15 years, provided that within 45 days after the date of final Village approval of the franchise the grantee shall file with the Village its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed. Such franchise shall be nonexclusive and revocable.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-7.
Franchise renewal.**

§ 60-7. Franchise renewal.

Current federal procedures and standards pursuant to 47 U.S.C. § 546 shall govern the renewal of any franchise awarded under this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-8.
Police powers of Village.**

§ 60-8. Police powers of Village.

- A. In accepting a franchise, the grantee acknowledges that its rights thereunder are subject to the police power of the Village to adopt and enforce general ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the Village pursuant to such power. The Village will adopt no ordinance which shall be contrary to the express terms of the franchise agreement between the Village and grantee.
- B. Any conflict between the provisions of a franchise and any other current or future lawful exercise of the Village's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction or applies exclusively to the grantee or cable television systems which contains provisions inconsistent with this chapter shall prevail only if upon such exercise the Village finds a danger to health, safety, property or general welfare or if such exercise is mandated by law.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-9.
Franchise required.**

§ 60-9. Franchise required.

No cable television system shall be allowed to operate or to occupy or use the streets for system installation and maintenance purposes without a franchise.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-10.
Use of grantee's facilities.**

§ 60-10. Use of grantee's facilities.

The Village shall have the right to install and maintain upon the poles of the grantee at a charge equal to the grantee's costs any wire or pole fixtures that do not unreasonably interfere with the cable television system operations, including future plans, of the grantee. The Village shall indemnify and hold harmless the grantee from any claim that might arise due to or as a result of the Village's use.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-11.
Initial franchise costs.**

§ 60-11. Initial franchise costs.

Costs to be borne by a grantee shall include any requirements or charges incidental to the awarding or enforcing of its initial franchise but shall not be limited to all costs of publication of notices prior to any public meeting provided for pursuant to this chapter and any costs not covered by application fees incurred by the Village in its study, preparation of proposal documents, evaluation of all applications, and examination of the applicant's qualifications unless all, or any portion thereof, shall be waived by the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-12.
Notices.**

§ 60-12. Notices.

All notices from the grantee to the Village pursuant to any franchise shall be to the Village Administrator. The grantee shall maintain with the Village, throughout the term of the franchise, an address for service of notices by mail. The grantee shall maintain a central office to address any issues relating to operating under this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-13.
Bond.**

§ 60-13. Bond.

- A. Within 60 days after the award of an initial or renewal franchise, the grantee shall deposit with the Village a bond in the amount of \$5,000 with the form to be established by the Village. The form and content of such bond shall be approved by the Village Attorney. This instrument shall be used to ensure the faithful performance by the grantee of all provisions of this chapter and to ensure compliance with all orders, permits and directions of any agency, commission, board, department, division, or office of the Village having jurisdiction over its acts or defaults under this chapter and to ensure the payment by the grantee of any claims, liens, and taxes due the Village which arise by reason of the construction, operation or maintenance of the system.
- B. The bond shall be maintained at the amount established in Subsection A for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this chapter.
- C. If the grantee fails to pay to the Village any amounts owed under the franchise agreement, that are not on appeal to the court of proper jurisdiction, within the time fixed herein or fails

after 15 days' notice to pay to the Village any taxes due and unpaid or fails to repay the Village within 15 days any damages, costs or expenses which the Village is compelled to pay by reason of any act or default of the grantee in connection with the franchise or fails, after three days' notice of such failure by the Village, to comply with any provision of the franchise which the Village reasonably determines can be remedied by demand on the bond, the Village may immediately demand payment of the amount thereof, with interest and any penalties, from the bond. Upon such demand for payment, the Village shall notify the grantee of the amount and date thereof.

- D. The rights reserved to the Village with respect to the bond are in addition to all other rights of the Village, whether reserved by the franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the Village may have.
- E. The bond shall contain an endorsement agreeing that the bond may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the Village, by registered mail, of a written notice of such intention to cancel or not to renew.
- F. In the event the Village receives a thirty-day notice from a surety, it shall have the right to demand payment from the bond unless the grantee provides appropriate assurance that a replacement bond will be presented before the expiration of the thirty-day period. Assurance shall be determined by the Village at its sole discretion. This subsection shall not apply if the Village and grantee agree that a bond is no longer required or if the bond is, by agreement between the Village and grantee, in the process of being reduced.
- G. The Village may, at any time during the term of this chapter, waive the grantee's requirement to maintain a bond. The waiver of the requirement may be initiated by the Village or may be requested by the grantee.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-14.
Construction performance bond.**

§ 60-14. Construction performance bond.

- A. Within 60 days after the award of an initial or renewal franchise, the grantee shall file with the Village a performance bond in the amount of not less than \$50,000 in favor of the Village. This bond shall be maintained throughout the construction period and until such time as determined by the Village, unless otherwise specified in the franchise agreement.
- B. If the grantee fails to comply with any law, ordinance or resolution governing the franchise or fails to observe, fulfill and perform each term and condition of the franchise as it relates to

the conditions relative to the construction of the system, including the franchise agreement that is incorporated herein by reference, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or losses suffered by the Village, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney fees, including the Village's legal staff, and costs, up to the full amount of the bond. This subsection shall be an additional remedy for any and all violations outlined in § 60-13.

- C. The Village shall, upon completion of construction of the service area, waive the requirement of the grantee to maintain the bond. However, the Village may require a performance bond to be posted by the grantee for any construction subsequent to the completion of the initial service area in a reasonable amount not to exceed \$50,000 and upon such terms as determined by the Village.
- D. The bond shall contain an endorsement stating that the bond may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the Village, by registered mail, of a written notice of such intent to cancel and not to renew.
- E. Upon receipt of a thirty-day notice, and following a thirty-day period to cure, this shall be construed as default granting the Village the right to demand payment on the bond.
- F. The Village, at any time during the term of this chapter, may waive the grantee's requirement to maintain a performance bond. The waiver of the requirement can be initiated by the Village or the grantee.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-15.
Liability and insurance.**

§ 60-15. Liability and insurance.

- A. The grantee shall maintain and by its acceptance of the franchise specifically agrees that it will maintain throughout the term of the franchise liability insurance insuring the Village and the grantee in the minimum amount of:
 - (1) One million dollars for property damage to any one person;
 - (2) One million dollars for property damage from any one occurrence;
 - (3) One million dollars for personal injury to any one person; and
 - (4) One million dollars for personal injury from any one occurrence.
- B. The certificate of insurance obtained by the grantee in compliance with this section shall be

filed and maintained with the Village during the term of the franchise. The grantee shall immediately advise the Village Attorney of any litigation that may develop that would affect this insurance.

- C. Neither the provisions of this section nor any damages recovered by the Village thereunder shall be construed to limit the liability of the grantee under any franchise issued hereunder.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-16.
Indemnification.**

§ 60-16. Indemnification.

- A. Disclaimer of liability. The Village shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of the grantee's cable television system or due to the act or omission of any person or legal entity other than the Village or those persons or legal entities for which the Village is legally liable as a matter of law.
- B. Indemnification. The grantee shall, at its sole cost and expense, indemnify and hold harmless the Village, its respective officers, boards, departments, commissions and employees (hereinafter referred to as "indemnitees") from and against:
- (1) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants) which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the grantee, its personnel, employees, agents, contractors or subcontractors resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, corporation or other legal entity which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the cable television system caused by the grantee, its subcontractors or agents or the grantee's failure to comply with any federal, state or local law.
 - (2) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants) imposed upon indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to the grantee, its contractors or subcontractors for the installation, construction, operation or

maintenance of the cable television system. Upon written request by the Village, such claim or lien shall be discharged or bonded within 15 days following such request.

- (3) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants) which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by the grantee or its affiliates for violations of the common law or any laws, statutes or regulations of the State of Wisconsin or of the United States, including those of the Federal Securities and Exchange Commission, whether by the grantee or otherwise, excluding therefrom, however, claims which are based upon and arise out of information supplied by the Village to the grantee in writing and included in the offering materials with the express written approval of the Village prior to the offering.

C. Assumption of risk.

- (1) The grantee undertakes and assumes for its officers, directors, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any Village-owned or -controlled property, including public rights-of-way, and the grantee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the cable television system or the grantee's failure to comply with any federal, state or local law.
- (2) The Village shall hold the grantee harmless for any damages resulting from the negligence or misconduct of the grantor or its officials, boards, departments, commissions or employees.

D. Defense of indemnitees. In the event any action or proceeding shall be brought against any or all of the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the grantee shall, upon notice from any of the indemnitees, at the grantee's sole cost and expense, defend the same to the extent it is obligated to do so.

E. Notice, cooperation and expenses. The Village shall give the grantee reasonably prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the Village from cooperating with the grantee and participating in the defense of any litigation by the Village's own counsel at the Village's own expense. No recovery by the Village of any sum under the bond shall be any limitation upon the liability of the grantee to the Village under the terms of this section, except that any sum so received by the Village shall be deducted from any recovery which the Village might have against the grantee under the terms of this section.

- F. Nonwaiver of statutory limits. Nothing in this chapter is intended to express or imply a waiver by the Village of statutory provisions, privileges or immunities of any kind or nature as set forth in § 893.80 et seq., Wis. Stats., including the limits of liability of the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-17.
Rights of individuals.**

§ 60-17. Rights of individuals.

- A. The grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, income, sex, marital status, sexual preference or age. This provision shall not apply to any situation where a subscriber, user, or citizen is unable to pay for the grantee's cable service. The grantee shall make reasonable attempts to comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference.
- B. The grantee shall make all reasonable efforts to comply with the equal employment opportunity requirements of the Federal Communications Commission and of state and local governments, and as amended from time to time.
- C. The grantee shall, at all times, make all reasonable efforts to comply with the privacy requirements of state and federal law.
- D. The grantee is required to make all services available to all residential dwellings throughout the service area located in areas having a density of at least 40 dwelling units per street mile.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-18.
Public notice.**

§ 60-18. Public notice.

Minimum public notice of any public meeting relating to the franchise shall be governed by the provisions of the State Open Meetings Law^{EN(45)} and shall be on at least one channel of the grantee's system between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days prior to the meeting.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-19.**

Service availability; records of service requests.

§ 60-19. Service availability; records of service requests.

The grantee shall provide cable television service throughout the entire franchise area pursuant to the provisions of the franchise and shall keep a record for at least three years of all requests for service received by the grantee. This record shall be available for public inspection at the local office of the grantee during regular office hours.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-20.
System construction.**

§ 60-20. System construction.

A. New construction timetable.

- (1) Within two years from the date of the award of an initial franchise, the grantee must make cable television service available to every dwelling unit within the initial service area.
 - (a) The grantee must make cable television service available to at least 20% of the dwelling units within the initial service area within six months from the date of the award of the franchise.
 - (b) The grantee must make cable television service available to at least 50% of the dwelling units within the initial service area within one year from the date of the award of the franchise.
- (2) The grantee, in its application, may propose a timetable of construction which will make cable television service available in the initial service area sooner than the above minimum requirements, in which case said schedule will be made part of the franchise agreement and will be binding upon the grantee.
- (3) Any delay beyond the terms of this timetable, unless specifically approved by the Village, will be considered a violation of this chapter for which the provisions of either § 60-38 or 60-46 shall apply, as determined by the Village.
- (4) In special circumstances the Village may waive one-hundred-percent completion within the two-year timeframe, provided that substantial completion is accomplished within the allotted timeframe, substantial completion to be not less than 95%. Justification for less than 100% must be submitted subject to the approval of the Village.

B. Line extensions.

- (1) In areas of the franchise territory not included in the initial service areas, a grantee shall be required to extend its system pursuant to the following requirements:
 - (a) No customer shall be refused service arbitrarily. The grantee is hereby authorized to extend the cable system as necessary within the Village. To expedite the process of extending the cable system into a new subdivision, the Village will forward to the grantee an approved engineering plan of each project. Subject to the density requirements, the grantee shall commence the design and construction process upon receipt of the final engineering plan. Upon notification from the Village that the first home in the project has been approved for a building permit, the grantee shall have a maximum of three months, weather permitting, to complete the construction/activation process within the applicable project phase.
 - (b) The grantee shall extend and make cable television service available to every dwelling unit in all unserved, developing areas having at least 40 dwelling units per street mile, as measured from the existing system from which service can be provided.
 - (c) The grantee shall extend and make cable television service available to any isolated resident outside the initial service area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard one-hundred-fifty-foot drop line.
- (2) Early extension. In areas not meeting the requirements for mandatory extension of service, the grantee shall provide, upon the request of a potential subscriber desiring service, an estimate of the grantee's costs required to extend service to the subscriber. The grantee shall then extend service upon request of the potential subscriber. The grantee may require advance payment or assurance of payment satisfactory to the grantee. In the event the area reaches the density required for mandatory extension within two years, such payments shall be refunded to the subscriber upon request.
- (3) New development undergrounding. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give the grantee reasonable notice of such construction or development and of the particular date on which open trenching will be available for the grantee's installation of conduit, pedestals and/or vaults and laterals. The grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner, except that if the grantee fails to install its conduit, pedestals and/or vaults and laterals within five working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed

after the five-day period, the cost of new trenching is to be borne by the grantee. Except for the notice of the particular date on which trenching will be available to the grantee, any notice provided to the grantee by the Village of a preliminary plat request shall satisfy the requirement of reasonable notice if sent to the local general manager of the grantee prior to approval of the preliminary plat request.

- C. Special agreements. Nothing herein shall be construed to prevent the grantee from serving areas within the legally incorporated boundaries of the Village not covered under this section upon agreement with developers, property owners, residents, or businesses, provided that 5% of the gross revenues from those areas are paid to the Village as franchise fees under § 60-28. The Village may waive or modify any or all of the provisions set forth in this section.
- D. A grantee may propose a line extension policy that will result in serving more residents of the Village than as required above, in which case the grantee's policy will be incorporated into the franchise agreement and will be binding on the grantee.
- E. The continued violation of this section following a reasonable notice of at least a thirty-day period to cure shall be considered a breach of the terms of this chapter, for which the provisions of either § 60-39 or 60-46 shall apply, as determined by the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-21.
Construction and technical standards.**

§ 60-21. Construction and technical standards.

- A. Compliance with construction and technical standards. The grantee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards. In addition, the grantee shall provide the Village, upon request, a written report of the results of the grantee's annual proof of performance tests conducted pursuant to Federal Communications Commission standards and requirements.
- B. Additional specifications.
 - (1) Construction, installation and maintenance of the cable television system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
 - (2) The grantee shall at all times make reasonable efforts to comply with the applicable:

- (a) National Electrical Safety Code (National Bureau of Standards).
 - (b) National Electrical Code (National Bureau of Fire Underwriters).
 - (c) FCC or other federal, state and local regulations.
- (3) In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the grantee may have equipment located.
- (4) Any antenna structure used in the system shall comply with construction, marking, and lighting of antenna structures required by the United States Department of Transportation.
- (5) All working facilities and conditions used during construction, installation and maintenance of the cable television system shall comply with the standards of the Occupational Safety and Health Administration.
- (6) Radio frequency (RF) leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns. FCC rules and regulations shall govern.
- (7) In all areas of the Village where all cables, wires and other like facilities of public utilities are placed underground, the grantee shall place its cables, wires and other like facilities underground. When all public utilities relocate their facilities from pole to underground, the cable operator must concurrently do so.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-22.
Use of streets.**

§ 60-22. Use of streets.

- A. Interference with persons and improvements. The grantee's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable health, safety or welfare of property owners who adjoin any of the streets and public ways, or interfere with any improvements the Village may make, or hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.
- B. Restoration to prior condition. In case of any disturbance of pavement, sidewalk,

landscaping, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the Village, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or alley disturbed in as good condition as before the work was commenced and in accordance with standards for such work set by the Village. After 30 days, if restoration measures are not performed to the reasonable satisfaction of the Village, the Village may undertake remedial restoration activities, such activities to be performed at the grantee's cost.

C. Erection, removal and common uses of poles.

- (1) No poles or other wire-holding structures shall be erected by the grantee without prior approval of the Village with regard to location, height, types, and any other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall be a vested interest, and such poles or structures shall be removed or modified by the grantee at its own expense whenever the Village determines that the public health, safety or welfare would be enhanced thereby.
- (2) Where poles or other wire-holding structures already existing for use in serving the Village are available for use by the grantee but it does not make arrangements for such use, the Village may require the grantee to use such poles and structures if it determines that the public health, safety or welfare would be enhanced thereby and the terms of the use available to the grantee are just and reasonable.
- (3) Where the Village desires to make use of the poles or other wire-holding structures of the grantee and the use will not unduly interfere with the grantee's operations, the Village may require the grantee to permit such use for reasonable consideration and terms.

D. Relocation of facilities. If at any time during the period of the franchise the Village shall lawfully elect to alter or change the grade of any street, alley or other public ways, the grantee, upon reasonable notice by the Village, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

E. Cooperation with building movers. The grantee shall, at the request of any person holding a building moving permit issued by the Village, temporarily raise or lower its wires to permit the moving of buildings. Expenses of such temporary removal, raising or lowering of wires shall be paid by the person making the request, and the grantee shall have the authority to require such payment in advance. The grantee shall be given at least 10 days' advance notice to arrange for such temporary wire changes.

F. Tree trimming. The grantee shall not remove any tree or trim any portion of any tree within any public street as defined herein without the prior consent of the Village, except in an emergency situation. The grantee shall provide notice to any affected residents at the same time that the grantee applies to the Village for consent to perform tree trimming. The Village

shall have the right to do the trimming requested by the grantee at the cost of the grantee. Regardless of who performs the work requested by the grantee, the grantee shall be responsible and shall defend and hold the Village harmless from any and all damages to any tree as a result of the grantee's trimming, or to the property surrounding any tree, whether such tree is trimmed or removed.

- G. Road cuts. The grantee shall not use road cuts for the laying of cable or wires without the prior approval of the Village. In the absence of such approval, the grantee shall utilize auguring.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-23.
Operational standards.**

§ 60-23. Operational standards.

- A. The grantee shall maintain all parts of the system in good condition throughout the entire franchise period.
- B. Upon the reasonable request for service by any person located within the franchise territory, the grantee shall, within 30 days, furnish the requested service to such person within terms of the line extension policy. A request for service shall be unreasonable for the purpose of this subsection if no distribution line capable of servicing that person's block has been installed.
- C. Temporary service drops.
 - (1) The grantee shall put forth every effort to bury temporary drops within 25 days after placement. Any delays for any other reason than listed will be communicated to the Village. The following delays will be found understandable and within the course of doing business: weather, ground conditions, street bores, system redesign requirements and any other unusual obstacle, such as obstructive landscaping that is created by the customer.
 - (2) The grantee shall provide reports to the Village, upon request, on the number of drops pending.
- D. The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.
- E. The grantee shall not allow its cable or other operations to interfere with television reception of subscribers or persons not served by the grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the customers

within the confines of the Village, nor shall other utilities interfere with the grantee's system.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-24.
Customer service standards.**

§ 60-24. Customer service standards.

- A. Nothing in this chapter shall be construed to prohibit the enforcement of any federal, state or local law or regulation concerning customer service or consumer protection that imposes customer service standards or consumer protection requirements that exceed the customer service standards set out in this chapter or that address matters not addressed in this chapter.
- B. The grantee shall maintain a local or toll-free telephone access line which is available to its subscribers and shall have knowledgeable, qualified representatives available to respond to customer telephone inquiries regarding repairs 24 hours per day, seven days per week.
- C. Under normal operating conditions, the customer will receive a busy signal less than 3% of the total time that the office is open for business.
- D. A centrally located customer service center will be open for walk-in customer transactions a minimum of eight hours per day Monday through Friday, unless there is a need to modify those hours because of the location or customers served. The grantee and Village by mutual consent shall establish supplemental hours on weekdays and weekends as fits the needs of the community.
- E. Under normal operating conditions, each of the following standards will be met no less than 95% of the time as measured on an annual basis:
 - (1) Standard installations will be performed within seven business days after an order has been placed. A standard installation is one that is within 150 feet of the existing system.
 - (2) Excluding those situations that are beyond its control, the grantee will respond to any service interruption promptly and in no event later than 24 hours from the time of initial notification. All other regular service requests will be responded to within 36 hours during the normal work week for that system. The appointment window alternatives for installations, service calls and other installation activities will be "morning" or "afternoon," not to exceed a four-hour window during normal business hours for the system, or at a time that is mutually acceptable. The grantee shall schedule supplemental hours during which appointments can be scheduled based on the needs of the community. If at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time that is

convenient to the customer.

- F. Subscriber credit for outages. Upon service interruption of a subscriber's cable service, the following shall apply:
 - (1) For service interruptions of more than four hours and up to four days, the grantee shall provide, at the subscriber's request, a credit of 1/30 of one month's fees for affected services for each twenty-four-hour period service is interrupted for four or more hours for any subscriber, with the exception of subscribers disconnected because of nonpayment or excessive signal leakage.
 - (2) For interruptions of 168 hours or more in one month, the grantee shall provide, at the subscriber's request, a full month's credit for affected services for all affected subscribers.
- G. The grantee shall provide written information for each of the following areas at the time of installation and at any future time upon the request of the customer:
 - (1) Product and services offered.
 - (2) Prices and service options.
 - (3) Installation and service policies.
 - (4) How to use the cable television services.
- H. Bills will be clear, concise and understandable, with all charges for cable services itemized.
- I. Credits will be issued promptly, but no later than the customer's next billing cycle following the resolution of the request and the return of the equipment by the grantee if service has been terminated.
- J. The grantee shall notify customers a minimum of 30 days in advance of any rate or channel change.
- K. The grantee shall maintain and operate its network in accordance with the rules and regulations incorporated herein or as may be promulgated by Federal Communications Commission, the United States Congress, or the State of Wisconsin.
- L. The grantee shall continue, through the term of the franchise, to maintain the technical standards and quality of service set forth in this chapter. Should the Village find, by resolution, that the grantee has failed to maintain these technical standards and quality of service and should it, by resolution, specifically enumerate improvements to be made, the grantee shall make such improvements, if reasonable. Failure to commence such improvements within three months of such resolution will constitute a breach of a condition

for which penalties contained in § 60-46 are applicable.

- M. The grantee shall keep a monthly service log that indicates the nature of each service complaint received in the last 24 months, the date and time each complaint was received, the disposition of each complaint, and the time and date thereof. This log shall be made available for periodic inspection by the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-25.
Continuity of service.**

§ 60-25. Continuity of service.

- A. It shall be the right of all subscribers to continue receiving service as long as their financial and other obligations to the grantee are honored. If the grantee elects to rebuild, modify or sell the system, or the Village gives notice of intent to terminate or fails to renew the franchise, the grantee shall reasonably act so as to ensure that all subscribers receive continuous, uninterrupted service until alternative service can be provided; however, in all events, not beyond the duration of the franchise agreement.
- B. If there is a change of franchise, or if a new operator acquires the system, the grantee shall cooperate with the Village, new franchisee or new operator to maintain continuity of service to all subscribers.
- C. If the grantee fails to operate the system for seven consecutive days without prior approval of the Village or without just cause, the Village may, at its option, operate the system or designate an operator until such time as the grantee restores service under conditions acceptable to the Village or a permanent operator is selected. If the Village is required to fulfill this obligation for the grantee, the grantee shall reimburse the Village for all reasonable costs or damages in excess of revenues from the system received by the Village that are the result of the grantee's failure to perform.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-26.
Complaint procedure.**

§ 60-26. Complaint procedure.

- A. The Village Board or its designee has primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

- B. During the terms of the franchise and any renewal thereof, the grantee shall maintain a central office, designated by the grantee, for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The office must be reachable by a local and/or toll-free telephone call to receive complaints regarding quality of service, equipment functions and similar matters. The grantee will make good faith efforts to arrange for one or more payment locations in a central location where customers may pay bills or drop off equipment.
- C. As subscribers are connected or reconnected to the system, the grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed.
- D. When there have been similar complaints made or where there exists other evidence which, in the judgment of the Village, casts doubt on the reliability or quality of cable service, the Village shall have the right and authority to require the grantee to test, analyze and report on the performance of the system. The grantee shall fully cooperate with the Village in performing such testing and shall prepare results and a report, if requested, within 30 days after notice, if reasonably possible. Such report shall include the following information:
 - (1) The nature of the complaint or problem that precipitated the special tests;
 - (2) The system component(s) tested;
 - (3) The equipment used and procedures employed in testing;
 - (4) The method, if any, in which such complaint or problem was resolved;
 - (5) Any other information pertinent to the tests and analysis which may be required.
- E. The Village may require that tests be supervised at the grantee's expense unless results are found to be in compliance by an independent professional engineer or equivalent of the Village's choice. The engineer shall sign all records of special tests and forward to the Village such records with a report interpreting the results of the tests and recommending actions to be taken.
- F. The Village's rights under this section shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on complaints or other evidence when and under such circumstances as the Village has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service.

Grantee rules and regulations.

§ 60-27. Grantee rules and regulations.

The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under the franchise and to assure uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-28.
Franchise fee.**

§ 60-28. Franchise fee.

- A. A grantee shall pay to the Village a franchise fee in the amount designated in the franchise agreement. Unless otherwise specified in the franchise agreement, such franchise fee shall be 5% of the grantee's gross revenues.
- B. The franchise fee payment shall be in addition to any other tax or payment owed to the Village by the grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes.
- C. The franchise fee and any other costs or penalties assessed shall be payable quarterly on a calendar-year basis to the Village within 45 days of the end of each quarter. The grantee shall also file a complete and accurate verified statement of all gross revenues as previously defined within 45 days of the end of each quarter.
- D. The Village shall have the right to inspect the grantee's income records and to audit and recompute any amounts determined to be payable under this chapter; provided, however, that such audit shall take place within 60 months following the close of each of the grantee's fiscal years that is the subject of the audit. Any additional amount due the Village as a result of an audit shall be paid within 30 days following written notice to the grantee by the Village, which shall include a copy of the audit report.
- E. If any franchise fee payment or recomputed amount, cost or penalty is not made on or before the applicable dates heretofore specified, interest shall be charged from such date at an annual rate of 12%. The grantee shall reimburse the Village for any additional expenses and costs incurred by the Village by reason of the delinquent payment(s), including but not limited to attorney fees, consultant fees and audit fees.

F. The Village may waive the franchise fee provisions set forth in this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-29.
Transfer of ownership or control.**

§ 60-29. Transfer of ownership or control.

- A. A franchise shall not be assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any person without the prior written consent of the Village. The grantee may, however, transfer or assign the franchise to a wholly owned subsidiary of the grantee and such subsidiary may transfer or assign the franchise back to the grantee without such consent, provided that such assignment is without any release of liability of the grantee. Any proposed assignee must show legal, technical and financial responsibility as determined by the Village and must agree to comply with all provisions of the franchise. The Village shall have 120 days to act upon any request for approval of a sale or transfer submitted in writing that contains or is accompanied by all such information as is required in accordance with FCC regulations and by the Village. The Village shall be deemed to have consented to a proposed transfer or assignment if its refusal to consent (including the reasons therefor) is not communicated in writing to the grantee within 120 days following receipt of written notice together with all necessary information as to the effect of the proposed transfer or assignment upon the public, unless the requesting party and the Village agree to an extension of time. The Village shall not unreasonably withhold consent to a proposed transfer.
- B. The grantee shall promptly notify the Village of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of 40% of the voting shares of the grantee. Every change, transfer or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the Village shall have consented thereto, which consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the Village may inquire into the legal, technical, financial and other qualifications of the prospective controlling party, and the grantee shall assist the Village in such inquiry.
- C. The consent or approval of the Village to any transfer of the grantee shall not constitute a waiver or release of the rights of the Village in and to the streets, and any transfer shall by its terms be expressly subordinate to the terms and conditions of the franchise.

- D. In the absence of extraordinary circumstances, the Village shall not be required to approve any transfer or assignment of a new franchise prior to substantial completion of construction of the proposed system.
- E. In no event shall a transfer of ownership or control be approved without the successor(s) in interest agreeing in writing to abide by the terms and conditions of the franchise agreement.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-30.
Availability of books and records.**

§ 60-30. Availability of books and records.

- A. The grantee shall fully cooperate in making available at reasonable times, and the Village shall have the right to inspect at the grantee's office, upon reasonable notice and where reasonably necessary for the enforcement of the franchise, books, records, maps, plans and other like materials of the grantee applicable to the cable television system, at any time during normal business hours.
- B. Unless prohibited by law, rule or regulation, the following records and/or reports are to be made available to the Village upon request, but no more frequently than on an annual basis if so mutually agreed upon by the grantee and the Village:
 - (1) A yearly review and resolution or progress report submitted by the grantee to the Village.
 - (2) Periodic preventive maintenance reports.
 - (3) Copies of FCC Form 395-A (or successor form) or any supplemental forms related to equal opportunity or fair contracting policies.
 - (4) Subscriber inquiry/complaint resolution data (but not including names or addresses) and the right to review documentation concerning these inquiries and/or complaints periodically.
 - (5) Periodic construction update reports, including, where appropriate, the submission of strand maps.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-31.
Other petitions and applications.**

§ 60-31. Other petitions and applications.

Copies of all petitions, applications, communications and reports submitted by the grantee to the Federal Communications Commission or to any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to the franchise or received from such agencies shall be provided to the Village upon request.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-32.
Fiscal reports.**

§ 60-32. Fiscal reports.

The grantee shall file annually with the Village no later than 120 days after the end of the grantee's fiscal year a copy of a gross revenues statement certified by an officer of the grantee. This provision may be waived by the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-33.
Removal of cable television system.**

§ 60-33. Removal of cable television system.

At the expiration of the term for which the franchise is granted or when any renewal is denied, or upon its termination as provided herein, the grantee shall forthwith, upon written notice by the Village, remove at its own expense all aerial portions of the cable television system from all streets and public property within the Village within six months. If the grantee fails to do so within six months, the Village may perform the work at the grantee's expense. Upon such notice of removal, a bond shall be furnished by the grantee in an amount sufficient to cover this expense.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-34.
Required services and facilities.**

§ 60-34. Required services and facilities.

- A. The cable television system shall have a minimum channel capacity of 77 channels.
- B. Such system shall maintain a plant having the technical capacity for two-way communications.

- C. The grantee shall provide the following; provided, however, that these uses may be combined on one or more channels until such time as additional channels become necessary in the opinion of the Village. Studios and associated production equipment will be located in a mutually agreed upon site to meet the need for educational and local governmental access as noted in Subsection C(1), (2) and (3). Financial and technical support and replacement and maintenance of equipment of this facility shall be separately incorporated into the franchise by agreement.
- (1) At least one specially designated channel for use by local education authorities.
 - (2) At least one specially designated channel for local governmental uses.
 - (3) If required by the franchise agreement, an Institutional Network (I-Net) of cable, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmitting two-way video signals interconnecting designated entities to be determined by the Village. The cost of such network will be borne by the Village as negotiated between the grantee and the Village. Such network may be provided as needed by utilizing capacity on the system.
- D. The grantee shall incorporate into its cable television system the capacity to permit the Village, in times of emergency, to override by remote control the audio, video and/or text of all channels simultaneously, which the grantee may lawfully override. The grantee shall provide emergency broadcast capacity pursuant to FCC rules. The grantee shall cooperate with the Village in the use and operation of the emergency alert override system.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-35.
Additional regulations.**

§ 60-35. Additional regulations.

- A. In addition to the inherent powers of the Village to regulate and control any cable television franchise and those powers expressly reserved by the Village or agreed to and provided for herein, the right and power is hereby reserved by the Village to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of the franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations and do not appreciably increase the burdens or appreciably impair the rights of the grantee under the franchise agreement.
- B. The Village may also adopt such regulations at the request of the grantee upon application.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-36.
Performance evaluation sessions.**

§ 60-36. Performance evaluation sessions.

- A. The Village and the grantee may hold scheduled performance evaluation sessions within 30 days of the third and sixth anniversary dates of the grantee's award or renewal of the franchise and as may be required by federal and state law. All such evaluation sessions shall be open to the public.
- B. Special evaluation sessions may be held at any time during the term of the franchise at the request of the Village or the grantee.
- C. All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The grantee shall notify its subscribers of all evaluation sessions by announcements on at least one channel of its system between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days preceding each session.
- D. Topics which may be discussed at any scheduled or special evaluation session may include but are not limited to service rate structures; franchise fee; penalties; free or discounted services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to this chapter; judicial and FCC rulings; line extension policies; and grantee or Village rules. The Village acknowledges that, pursuant to federal law, it does not have jurisdiction nor enforcement rights over all the standards and services mentioned above, including programming and the application of all new technologies under a cable television franchise. Nothing in this subsection shall be construed as requiring the renegotiation of the cable franchise agreement.
- E. Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of 50 or more residents of the Village, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-37.
Rate change procedures.**

§ 60-37. Rate change procedures.

Pursuant to the Cable Television Consumer Protection and Competition Act of 1992, if the Village is

currently certified to regulate the basic service rates charged by the grantee, it may, under these rules, require the grantee to obtain approval from the Village for a rate increase for any change to the rates for basic service. Should federal or state law permit further rate regulation beyond basic service the Village may, if certified, assume such rate regulation and adopt appropriate procedures for such regulation.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-38.
Forfeiture and termination.**

§ 60-38. Forfeiture and termination.

- A. Pursuant to § 60-47, in addition to all other rights and powers retained by the Village under this chapter or otherwise, the Village reserves the right to forfeit and terminate the franchise and all rights and privileges of the grantee hereunder in the event of a substantial breach of its terms and conditions following a reasonable period of at least 30 days to cure. A substantial breach by the grantee shall include but shall not be limited to the following:
- (1) Violation of any material provision of the franchise or any material rule, order, regulation or determination of the Village made pursuant to the franchise;
 - (2) Attempt to evade any material provision of the franchise or to practice any fraud or deceit upon the Village or its subscribers or customers;
 - (3) Failure to begin or complete system construction or system extension as provided under § 60-20;
 - (4) Failure to provide the services promised in the grantee's initial application as incorporated herein by § 60-4;
 - (5) Failure to restore service after 168 consecutive hours of interrupted service, except when approval of such interruption is obtained from the Village; or
 - (6) Material misrepresentation of fact in the application for or negotiation of the franchise.
- B. The foregoing shall not constitute a major breach if the violation occurs but is without fault of the grantee or occurs as a result of circumstances beyond its control. The grantee shall not be excused by mere economic hardship.
- C. The Village may make a written demand that the grantee comply with any such provision, rule, order or determination under or pursuant to the franchise. If the violation by the grantee continues for a reasonable period of at least 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Village may place the issue of termination of the franchise before the Village Board. The Village shall cause to be served upon the grantee, at least 20 days prior to the

date of such meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and the issue(s) which the Board is to consider.

- D. The Village Board shall hear and consider the issue(s) and shall hear any person interested therein and shall determine in its discretion whether or not any violation by the grantee has occurred.
- E. If the Village Board determines that the violation by the grantee was the fault of the grantee and within its control and that the grantee has failed to make reasonable efforts to correct the violation, then the Board may, by resolution, declare that the franchise of the grantee shall be forfeited and terminated unless there is compliance within such period as the Board may fix, such period to not be less than 30 days; provided, however, that no opportunity for compliance need be granted for fraud or material misrepresentation.
- F. The issue of forfeiture and termination shall automatically be placed upon the Board agenda at the expiration of the time set by it for compliance. The Board may then terminate the franchise forthwith upon finding that the grantee has failed to take reasonable actions necessary to achieve compliance or it may further extend the period, at its discretion.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-39.
Foreclosure.**

§ 60-39. Foreclosure.

Upon the foreclosure or other judicial sale of all or a substantial part of the system, or upon the termination of any lease covering all or a substantial part of the system, the grantee shall notify the Village of such fact, and such notification shall be treated as a notification that a change in control of the grantee has taken place, and the provisions of the franchise governing the consent of the Village to such change in control of the grantee shall apply.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-40.
Approval of transfer and right of acquisition by Village.**

§ 60-40. Approval of transfer and right of acquisition by Village.

Federal regulations as per 47 U.S.C. § 537 shall apply to approval of transfer issues and the right of acquisition by the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-41.
Receivership.**

§ 60-41. Receivership.

The Village shall have the right to cancel a franchise 120 days after the appointment of a receiver or trustee to take over and conduct the business of the grantee, unless such receivership or trusteeship shall have been vacated prior to the expiration of 120 days or unless:

- A. Within 120 days after his/her election or appointment, such receiver or trustee shall have fully complied with all the provisions of this chapter and remedied all defaults thereunder; and
- B. Such receiver or trustee, within the 120 days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and the franchise granted to the grantee.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-42.
Compliance with state and federal laws.**

§ 60-42. Compliance with state and federal laws.

- A. Notwithstanding any other provisions of the franchise to the contrary, the grantee shall at all times make reasonable efforts to comply with all laws and regulations of the state and federal government or any administrative agencies thereof; provided, however, that if any such state or federal law or regulation shall require the grantee to perform any service, or shall permit the grantee to perform any service, or shall prohibit the grantee from performing any service, in conflict with the terms of the franchise or of any law or regulation of the Village, then as soon as possible following knowledge thereof, the grantee shall notify the Village of the point of conflict believed to exist between such regulation or law and the laws or regulations of the Village or the franchise.
- B. If the Village determines that a material provision of this chapter is affected by any subsequent action of the state or federal government, the Village and the grantee shall negotiate to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter.
- C. If any section, sentence, paragraph, term, or provision hereof is determined to be illegal,

invalid or unconstitutional by any court of competent jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the franchise, or any renewal or renewals thereof.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-43.
Landlords and tenants.**

§ 60-43. Landlords and tenants.

- A. Interference with cable service prohibited. Neither the owner of any multiple-unit residential dwelling nor his agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive and use cable service, cable installation or maintenance of the cable system in any way.
- B. Penalties and charges to tenants for service prohibited. Neither the owner or any multiple-unit residential dwelling nor his agent or representative shall penalize, charge or surcharge a tenant or resident or forfeit or threaten to forfeit any right of such tenant or resident or discriminate in any way against such tenant or resident who requests or receives cable television service from a grantee operating under a valid and existing cable television franchise issued by the Village.
- C. Reselling service prohibited. No person shall resell, without the expressed, written consent of the grantee, any cable service, program or signal transmitted by a cable television grantee under a franchise issued by the Village.
- D. Protection of property permitted. Nothing in this chapter shall prohibit a person from requiring that cable television system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-44.
Applications for initial franchise.**

§ 60-44. Applications for initial franchise.

- A. All applications received by the Village from the applicants for an initial franchise will become the sole property of the Village.

- B. The Village reserves the right to reject any and all applications and waive informalities and/or technicalities where the best interest of the Village may be served.
- C. All questions regarding the meaning or intent of this chapter or application documents shall be submitted to the Village in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the Village as having received the application documents. The Village reserves the right to make extensions of time for receiving applications as it deems necessary. Questions received less than 14 days prior to the date for the opening of applications will not be answered. Only replies to questions by written addenda will be binding. All applications must contain an acknowledgment of receipt of all addenda.
- D. Applications must be sealed and submitted at the time and place indicated in the application documents for the public opening. Applications may be modified at any time prior to the opening of the applications, provided that any modifications must be duly executed in the manner that the applicant's application must be executed. No application shall be opened or inspected before the public opening.
- E. Before submitting a application, each applicant must:
 - (1) Examine this chapter and the application documents thoroughly;
 - (2) Familiarize himself/herself with local conditions that may in any manner affect performance under the franchise;
 - (3) Familiarize himself/herself with federal, state and local laws, ordinances, rules and regulations affecting performance under the franchise; and
 - (4) Carefully correlate the application with the requirements of this chapter and the application documents.
- F. The Village may make such investigations as it deems necessary to determine the ability of an applicant to perform under the franchise, and the applicant shall furnish to the Village all such information and data for this purpose as the Village may request. The Village reserves the right to reject any application if the evidence submitted by, or investigation of, such applicant fails to satisfy the Village that such applicant is properly qualified to carry out the obligations of the franchise and to complete the work contemplated therein. Conditional applications will not be accepted.
- G. All applications received shall be placed in a secure depository approved by the Village and shall not be opened nor inspected prior to the public opening.
- H. The provisions of this section shall not apply to the renewal of an existing franchise agreement.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-45.
Disclosure requirements for initial franchises.**

§ 60-45. Disclosure requirements for initial franchises.

- A. No initial franchise will be granted to any applicant unless all requirements and demands of the Village regarding financial, contractual, shareholder and system disclosure have been met.
- B. Applicants, including all shareholders and parties with any interest in the applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied, with any person, firm, group, association or corporation with respect to the franchise and the proposed cable television system. The grantee of a franchise shall disclose all other contracts to the Village as the contracts are made. This section shall include, but not be limited to, any agreements between local applicants and national companies.
- C. Applicants, including all shareholders and parties with any interest in the applicant, shall submit all requested information as provided by the terms of this chapter or the application documents, which are incorporated herein by reference. The requested information must be complete and verified as true by the applicant.
- D. Applicants, including all shareholders and parties with any interest in the applicant, shall disclose the numbers of shares of stock, and the holders thereof and shall include the amount of consideration for each share of stock and the nature of the consideration.
- E. Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding other cable systems in which they hold an interest of any nature, including but not limited to the following:
 - (1) Locations of all other franchises and the dates of award for each location;
 - (2) Estimated construction costs and estimated completion dates for each system;
 - (3) Estimated number of miles of construction and number of miles completed in each system as of the date of this application; and
 - (4) Date for completion of construction as promised in the application for each system.
- F. Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding pending applications for other cable systems, including but not limited to the following:

- (1) Location of other franchise applications and date of application for each system;
- (2) Estimated dates of franchise awards;
- (3) Estimated number of miles of construction; and
- (4) Estimated construction costs.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-46.
Violations and penalties.**

§ 60-46. Violations and penalties.

For the violation of any of the following provisions of this chapter, damages shall be chargeable to the letter of credit or corporate guarantee in lieu of bond as follows, and the Village may determine the amount of the forfeiture for other violations that are not specified in a sum not to exceed \$250 for each violation, with each day constituting a separate violation:

- A. Failure to furnish, maintain, or offer all cable services to any eligible subscriber within the Village pursuant to § 60-20 herein upon order of the Village: up to \$250 per day, per violation, for each day that such failure occurs or continues up to a maximum of \$1,000.
- B. Failure to obtain or file evidence of required insurance, construction bond, performance bond, or other required financial security: up to \$250 per day, per violation, for each day such failure occurs or continues up to a maximum of \$1,000.
- C. Failure to provide access to data, documents, records, or reports to the Village as required by §§ 60-19, 60-29, 60-30, 60-31 and 60-37: up to \$250 per day, per violation, for each day such failure occurs or continues up to a maximum of \$1,000.
- D. Failure to comply with applicable construction, operation, or maintenance standards: up to \$250 per day, per violation up to a maximum of \$1,000.
- E. Failure to comply with a rate decision or refund order: up to \$500 per day, per violation, for each day such a violation occurs or continues up to a maximum of \$1,000.
- F. Any violations for noncompliance with the customer service standards of §§ 60-23 through 60-25, the grantee shall pay up to \$250 per day for each day, or part thereof, that such noncompliance continues up to a maximum of \$1,000.
- G. Any other violations of a franchise agreement to be determined by the grantor in a public hearing but not specifically noted in this section shall not exceed \$250 per day, per violation up to a maximum of \$1,000.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-47.
Notice of violation.**

§ 60-47. Notice of violation.

- A. Whenever the Village believes that the grantee has violated one or more terms, conditions or provisions of the franchise and wishes to impose penalties, a written notice shall be given to the grantee informing it of such alleged violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford the grantee an opportunity to remedy the violation. The grantee shall have 30 days subsequent to receipt of the notice in which to correct the violation before the Village may impose penalties unless the violation is of such a nature so as to require more than 30 days and the grantee proceeds diligently within the 30 days to correct the violation. In any case where the violation is not cured within 30 days of notice from the Village, or such other time as the grantee and the Village may mutually agree to, the Village may proceed to impose the penalties described in § 60-46 above.
- B. The grantee may, within 20 days of receipt of notice, notify the Village that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the grantee to the Village shall specify with particularity the matters disputed by the grantee and shall stay the running of the applicable right to cure period pending Board decision as required below. The Board shall hear the grantee's dispute. The grantee must be given at least 20 days' notice of the hearing. At the hearing, the grantee shall be entitled to the right to present evidence and the right to be represented by counsel. After the hearing, the Village shall provide grantee a copy of its action, along with supporting documents. In the event the Village upholds the finding of a violation, the grantee shall have 15 days subsequent, or such other time period as the grantee and the Village mutually agree, to correct the violation.
- C. The rights reserved to the Village under this section are in addition to all other rights of the Village whether reserved by this chapter or authorized by law or equity, and no action, proceeding or exercise of a right with respect to penalties shall affect any other right the Village may have.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 60, CABLE TELEVISION / § 60-48.
Force majeure.**

§ 60-48. Force majeure.

The grantee shall not be held in default under, or in noncompliance with, the provisions of the franchise, nor suffer any enforcement or penalty relating to noncompliance or default, including termination, cancellation or revocation of the franchise, where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, severe weather conditions or other catastrophic act of nature, labor disputes, inability to obtain necessary contract labor or materials, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the grantee's ability to anticipate and control and that makes performance impossible.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 65, CIGARETTES**

Chapter 65, CIGARETTES

[HISTORY: Adopted by the Village Board of the Village of Merrimac as § 11.03 of the Village Code. Amendments noted where applicable.]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 65, CIGARETTES / § 65-1. License
required.**

§ 65-1. License required.

No person shall in any manner, directly or indirectly, manufacture, sell, exchange, dispose of or give away or keep for sale any cigarettes or cigarette papers or wrappers without first obtaining a license therefor from the Village Administrator in the manner provided in § 134.65, Wis. Stats. This section shall not apply to jobbers or manufacturers doing interstate business with customers outside Wisconsin.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 65, CIGARETTES / § 65-2. Fee. EN**

§ 65-2. Fee. EN(46)

The fee for such cigarette license shall be as provided on the Village Fee Schedule. EN(47)

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 65, CIGARETTES / § 65-3. Form of
license; expiration. EN**

§ 65-3. Form of license; expiration. EN(48)

All cigarette licenses shall be signed by the Village Administrator and indicate thereon the name of the licensee and the place where he is authorized to conduct the licensed business and shall expire on June 30 next succeeding the date of issue.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 65, CIGARETTES / § 65-4. Violations
and penalties.**

§ 65-4. Violations and penalties.

The penalty for violation of any provision of this chapter shall be as provided in Chapter 1, § 1-4 of this Code. A separate offense shall be deemed committed on each day upon which a violation occurs or continues. If any person shall be convicted of a second or subsequent violation of the provisions of this chapter and the court in its judgment shall determine that he was personally guilty of a failure to exercise due care to prevent violation, his license privileges shall terminate immediately and he shall not be entitled to another license nor act as an agent or servant of another licensee for five years thereafter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS**

Chapter 74, FOOD AND DAIRY PRODUCTS

[HISTORY: Adopted by the Village Board of the Village of Merrimac as §§ 10.03, 10.07, 10.08, 10.09, 10.10, 10.12 and 10.15 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Intoxicating liquor and fermented malt beverages -- See Ch. 83.

Nuisances -- See Ch. 97.

Solid waste -- See Ch. 123.

Transient merchants -- See Ch. 136.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-1. Milk and milk products. EN**

§ 74-1. Milk and milk products. EN(49)

Milk and milk products shall be subject to the requirements of § 97.24(2), Wis. Stats.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

**PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-2. Sale of unwholesome or tainted food.**

§ 74-2. Sale of unwholesome or tainted food.

No person shall sell, offer for sale or hold for sale any meat, fish, fruits, vegetables or other articles of food or drink which are not fresh or properly preserved, sound, wholesome and safe for human consumption or the flesh of any animal which died by disease. The Village Board is hereby authorized and directed to seize and destroy any articles of food or drink which are offered or held for sale to the public which have become tainted, decayed, spoiled or otherwise unwholesome or unfit for human consumption.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-3. Restaurant regulations.**

§ 74-3. Restaurant regulations.

A. Definitions. As used in this section, the following terms shall have the meaning indicated:

RESTAURANT -- Any place, kitchen or conveyance where meals or lunches are prepared for sale, sold or served to transients or the general public.

B. General sanitation. All restaurant premises shall be kept clean and free of litter or rubbish. All garbage and rubbish shall be kept in suitable, airtight containers so as not to become a nuisance and shall be disposed of daily in a sanitary manner. No living or sleeping room, urinal, water closet, ash pit or coal bin shall connect directly with any room used for the preparation, storing or serving of food. Between May 1 and October 1, all doors, windows and apertures shall be effectively screened and doors shall be self-closing to prevent the entrance of flies. All equipment shall be kept clean and free from dust, dirt, insects, and other contaminating material.

C. Cleanliness and health of employees.

- (1) Clothing and conduct. All restaurant employees or workers shall wear clean clothing, hair nets or caps and shall keep their hands clean at all times while engaged in handling food, drink, utensils or equipment. Employees or workers shall not expectorate or use tobacco in any form in any area in which food is prepared.
- (2) Disease. No person infected with any disease in a communicable form or who is a carrier of any contagious disease shall work in any restaurant, and no restaurant owner or operator shall employ any such person to work in any restaurant.
- (3) Duty of Village Board. If the Village Board shall suspect that an employee or worker in

any restaurant is afflicted with any disease in communicable form, it shall notify such employee to cease working in any restaurant in the Village until he shall present a certified statement of a reputable physician or other satisfactory evidence that he is free from communicable disease.

- D. Water supply and plumbing. In every restaurant adequate safe water under pressure shall be convenient and available in any room where food is prepared or utensils washed. Private water supplies shall be tested for purity not less than once every six months in the manner directed by the Village Board. Plumbing shall be so designed, installed and maintained to prevent contamination of the water supply, food, drink, or equipment.
- E. Cleansing of utensils and equipment. In order to ensure proper cleansing and disinfection of glasses, cups, dishes, and other eating utensils in restaurants, they shall be thoroughly washed and sanitized after each use.^{EN(50)}
- F. Responsibility for compliance. It shall be the duty of the restaurant owner or operator to comply with the provisions of this section. Restaurant employees and workers shall also be personally responsible for compliance with Subsection C of this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-4. Grocery store and meat market sanitation.**

§ 74-4. Grocery store and meat market sanitation.

No person shall operate a grocery store or meat market within the Village of Merrimac in an unsanitary, filthy or unclean manner so as to endanger the health of patrons or other persons. In all grocery stores and meat markets, refrigerators or refrigerator counters shall be kept in sanitary condition and shall maintain a temperature of 40° F. or below. Spoiled or unwholesome food shall be removed from the refrigerator immediately upon detection. The walls and ceilings of the store and stockrooms shall be kept clean and painted. Basements shall be clean and orderly and all refuse or garbage kept inside the premises must be placed in metal containers properly covered and disinfected when necessary. Meat grinders, hooks and all other utensils must be cleaned at the end of each workday. All unwrapped bakery or confectionery products shall be handled in such a manner that they do not come in direct contact with the hands of the individual selling them. The operator of the store or market shall be responsible for compliance with this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-5. Meat inspection.**

§ 74-5. Meat inspection.

No person shall sell, have, keep or expose for sale for human consumption the flesh or meat food products of any cow, calf, sheep, swine, horse or goat in the Village of Merrimac unless the same shall have been slaughtered, inspected or prepared under the supervision of a Wisconsin government inspector or in accordance with the regulations governing the inspection of meat as prescribed by the United States Department of Agriculture, Bureau of Animal Industry, Title 9, Chapter 1(a), Code of Federal Regulations.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-6. Right to enter premises. EN**

§ 74-6. Right to enter premises. EN⁽⁵¹⁾

The Village Board or its designated agent shall have the right to enter and examine any public premises or any place where meat, fish, poultry, game, milk, bakery goods or other foodstuffs are stored, prepared or dispensed for public consumption and to inspect or examine any vehicle transporting such foodstuffs for the purpose of enforcing the provisions of this chapter. Any person who shall hinder, obstruct or prevent the Village Board or its designated agent from entering or carrying out the examination of such premises or vehicle shall, upon conviction thereof, be subject to a penalty as provided in § 74-7.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 74, FOOD AND DAIRY PRODUCTS / §
74-7. Violations and penalties.**

§ 74-7. Violations and penalties.

The penalty for violation of any provision of this chapter shall be a penalty as provided in Chapter 1, § 1-4 of this Code. A separate offense shall be deemed committed in each day on which a violation occurs or continues.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES**

**Chapter 83, INTOXICATING LIQUOR AND FERMENTED MALT
BEVERAGES**

[HISTORY: Adopted by the Village Board of the Village of Merrimac 5-13-1985 by Ord. No.

85-05-13 (§ 11.01 of the Village Code). Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances -- See Ch. 97.

Peace and good order -- See Ch. 102.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES / § 83-1. State statutes adopted.

§ 83-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats., as presently adopted or as may hereafter be amended or supplemented, relating to the sale of fermented malt beverages and intoxicating liquors are adopted as a portion of this chapter so far as applicable and except as otherwise provided by this chapter. Any violation of the provisions of Ch. 125, Wis. Stats., shall constitute violation of this chapter.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES / § 83-2. Definitions.

§ 83-2. Definitions.

The definitions of § 125.02, Wis. Stats., are adopted as a part of this chapter by reference as if fully set forth herein.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES / § 83-3. Types of licenses.

§ 83-3. Types of licenses.

The following types of licenses are subject to the provisions of this chapter:

- A. Class "A" fermented malt beverage retailer's license. This license authorizes the retail sale of fermented malt beverages for consumption off the premises where sold and in original packages, containers and bottles. The provisions and restrictions of § 125.25, Wis. Stats., regarding Class "A" licenses are adopted herein by reference.
- B. Class "B" fermented malt beverage retailer's license. This license authorizes the retail sale of fermented malt beverages to be consumed either on the premises where sold or off the premises. The provisions and restrictions of § 125.26, Wis. Stats., regarding Class "B"

licenses are adopted herein by reference.

- C. Retail "Class B" liquor license. This license authorizes the retail sale of intoxicating liquor to be consumed by the drink or glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four liters at any one time and to be consumed off the premises where sold. [Section 125.51(3)(b), Wis. Stats., is hereby specifically adopted by reference.] Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity. The provisions and restrictions of § 125.51, Wis. Stats., regarding retail "Class B" licenses are adopted herein by reference.
- D. Combination Class B retail license. This license shall permit its holder to sell, deal and traffic in intoxicating liquors and fermented malt beverages for consumption on and off the premises so located as set forth in Subsections B and C immediately set forth above, one license being issued therefore commonly known as a "combination license."
- E. Temporary Class "B" (picnic) retailer's license. This license shall permit its holder to sell, deal and traffic in fermented malt beverages at gatherings, picnics and festivals. Said license may be issued for periods up to four days in length and may be issued at any time of the year. The provisions of § 125.26(6), Wis. Stats., regarding temporary Class "B" licenses are adopted herein by reference.^{EN(52)}
- F. Wholesaler's fermented malt beverage license. This license authorizes the sale of fermented malt beverages only in original packages or containers to retailers or wholesalers, not to be consumed on or about the premises where sold. The provisions and restrictions of § 125.28(1), Wis. Stats., regarding wholesalers' licenses are adopted herein by reference.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-4. License required.**

§ 83-4. License required.

No person shall vend, sell, deal or traffic in intoxicating liquors or fermented malt beverages in any quantity whatever, or cause the same to be done, without first having obtained a license as provided in this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-5. Application for license.**

§ 83-5. Application for license.

The application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be in writing on a form furnished by the Wisconsin Department of Revenue and sworn to by the applicant. The application shall be filed with the Village Administrator.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-6. Qualifications of licensee.**

§ 83-6. Qualifications of licensee.

No license shall be granted to any person or persons under the legal drinking age for the sale of intoxicating liquor or fermented malt beverages or to any person who is not of good moral character and a full citizen of the United States and of this state and who has not resided in this state continuously as provided in Ch. 125, Wis. Stats, prior to the date of filing the application. No license shall be granted to any person who does not qualify for such license as provided in § 125.04(5) and (6), Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-7. License fees; part-time and
semiannual licenses.**

§ 83-7. License fees; part-time and semiannual licenses.

The license fees for the licenses subject to this chapter are as provided on the Village Fee Schedule,^{EN(53)} which fees shall be paid before issuance plus publication fees, if applicable. Part-time or semiannual liquor licenses shall be issued pursuant to § 125.51(9), Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-8. Annual license meeting.**

§ 83-8. Annual license meeting.

The Village Board shall meet not later than June 14 of each year to consider renewal of licenses for which an application for renewal has been made. The license year shall commence on July 1 annually. The licensing requirements and procedures and transfers from place to place shall be governed by Ch. 125, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-9. Condition of premises.**

§ 83-9. Condition of premises.

- A. No premises licensed under this chapter shall, during the hours in which the premises are closed to patrons, obstruct by use of curtains, blinds, screens or in any other manner a full and complete view of the interior from the outside.
- B. During the hours in which intoxicating liquor and/or fermented malt beverages are sold or permitted, the premises shall be properly and adequately lighted.
- C. Each licensed premises shall be maintained in a sanitary manner and shall be a safe and proper place for the purpose for which it is used.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-10. Posting of licenses.**

§ 83-10. Posting of licenses.

Each license issued under this chapter shall be posted up and at all times displayed in a conspicuous place in the licensed premises so that all persons visiting or frequenting the same may readily see and read the same. It shall be unlawful for any person to knowingly deface, destroy or obliterate any such license so posted or to remove the same without the express written consent of the licensee except for removal upon revocation duly had by the Village President, Village Administrator or any peace officer.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-11. Closing hours.**

§ 83-11. Closing hours.

- A. No sales shall be made nor consumption of intoxicating liquor or malt beverages shall occur and no patrons shall be on the licensed premises during the period of time set forth in Ch. 125, Wis. Stats., for closing hours except as provided hereinafter and as set forth in the statutes.
- B. Only the licensee and/or two employees (or two members of the immediate family of the licensee) are permitted to remain on the premises after the regular closing hours for the sole

purpose of cleaning the premises, securing the daily receipts and bookkeeping. Licensees and their employees shall, upon the request of the Village President, Village Administrator or a peace officer, permit entry after closing for the purpose of checking the licensee's compliance of this section. "Regular employees" shall be construed and mean persons regularly employed by the licensee.

- C. All places and businesses licensed to sell fermented malt beverages or intoxicating liquor, or both, after 12:00 midnight under the terms of their licenses shall not sell fermented malt beverages or intoxicating liquors for consumption away from the premises after 12:00 midnight nor allow any person or persons to carry off of the licensed premises any fermented malt beverage or intoxicating liquor in any size original container.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-12. Operator's license.**

§ 83-12. Operator's license.

- A. Operators' licenses may be granted by the Village Board only upon an application in writing. An operator's license shall be issued only to persons 18 years of age or over who are of good moral character. Operators' licenses issued under this section shall only be operative within the corporate limits of the Village of Merrimac. For the purposes of this section, the licensee and any member of the immediate family 18 years of age or over shall be considered as holding an operator's license.^{EN(54)}
- B. There shall be on the premises operated under any of the licenses provided § 83-3 of this chapter at all times the licensee, the agent named in the license if the licensee is a corporation, or some person who has an operator's license and is responsible for the acts of all persons serving as sellers, waiters, or bartenders in the sale of fermented malt beverages or intoxicating liquors to customers. No member of the immediate family of the licensee under 18 years of age may serve as a waiter or in any other manner sell or serve any fermented malt beverage or intoxicating liquor to customers unless an operator of 18 years of age or over is present upon and in immediate charge of the premises.^{EN(55)}
- C. The operator's license shall be issued for up to one year and shall expire on June 30 of the year for which it is issued. The fee shall be as set forth in § 83-7 hereof.
- D. A provisional operator's license is hereby authorized which shall be issued by the Village Administrator for a period of not more than 60 days from issuance. A provisional operator's license shall only be issued to a person who complies with all of the provisions of Ch. 125, Wis. Stats., which application shall be in writing, and application for an operator's license shall also be made concurrently with the provisional operator's license application with the

fees paid at time of application, said fees being set forth in § 83-7 hereof. The provisional license shall expire 60 days after its issuance or when an operator's license is granted by the Village Board, whichever is sooner in time. The Village Administrator may revoke the provisional license if it is discovered that the holder made a false statement on the application; a letter shall be mailed to the holder of the provisional license upon revocation at the address shown in the application, and the holder agrees to surrender the license and consents to the delivery of the provisional license by the owner or agent of the employer.

- E. Any violation of this chapter or Ch. 125, Wis. Stats., by any person holding either an operator's license or a provisional license shall be cause for revocation of said license after notice and a hearing before the Village Board.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-13. Revocation, suspension or
nonrenewal of license. EN**

§ 83-13. Revocation, suspension or nonrenewal of license. EN⁽⁵⁶⁾

The Village Board may revoke, suspend or refuse to renew any license authorized or issued under the terms of this chapter as provided and under the procedures set forth in § 125.12, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-14. Persons under legal drinking age.**

§ 83-14. Persons under legal drinking age.

A. Restrictions on sale and procurement.

- (1) No person may procure for, sell, barter, dispense or give away any fermented malt beverage to any person who has not attained the legal drinking age who is not accompanied by his or her parent, guardian or adult spouse or procure for, sell, barter, dispense or give away any intoxicating liquor to any person under the legal drinking age.
- (2) No licensee or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any person under the legal drinking age who is not accompanied by his or her parent, guardian or adult spouse or sell, vend, deal or traffic in intoxicating liquor to or with any person under the legal drinking age.

- B. Penalties and license suspension for sale to a person under the legal drinking age.
- (1) In this subsection, "violation" means a violation of this section.
 - (2) A person who commits a violation is subject to a forfeiture as provided in Chapter 1, § 1-4 of this Code. The court shall suspend any license or permit issued hereunder and shall notify the Wisconsin Department of Revenue and the Administrator of the Village all as provided in § 125.07, Wis. Stats.
- C. Penalties for persons under the legal drinking age. Any person under the legal drinking age who violates § 125.07(4), Wis. Stats., or this chapter shall be subject to the penalties provided therein as if fully set forth herein.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-15. Possession of alcohol beverages on
school grounds.**

§ 83-15. Possession of alcohol beverages on school grounds.

All provisions of § 125.09(2), Wis. Stats., are adopted by reference as if fully set forth herein as well as the penalty for violation thereof.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND
FERMENTED MALT BEVERAGES / § 83-16. Violations and penalties.**

§ 83-16. Violations and penalties.

- A. Any person who shall violate the provisions of this chapter where there exists no specific forfeiture shall, upon conviction thereof, be punished by a forfeiture as provided in Chapter 1, § 1-4 of this Code, plus court costs and penalty assessment.
- B. In the event of an adult failing to pay any forfeiture provided herein, said adult shall be confined in the County Jail of Sauk County for a period not to exceed 90 days.
- C. In addition to or in lieu of any penalty set forth above, any licensee or the employee or agent of any licensee who violates this chapter shall subject the licensee's license to revocation, suspension or refusal to renew as provided in § 83-13 of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 83, INTOXICATING LIQUOR AND**

FERMENTED MALT BEVERAGES / § 83-17. Construction.

§ 83-17. Construction.

All references to sections contained in Ch. 125, Wis. Stats., shall be construed as to mean those sections as they presently exist or as they may be hereafter amended or supplemented.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS**

Chapter 91, MOBILE HOMES AND MOBILE HOME PARKS

[HISTORY: Adopted by the Village Board of the Village of Merrimac as § 11.05 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land -- See Ch. 176.

Zoning -- See Ch. 185.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-1. State statutes adopted.**

§ 91-1. State statutes adopted.

The provisions of § 66.0435, Wis. Stats., and the definitions therein are hereby adopted and made part of this chapter by reference.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-2. Parking outside licensed mobile home parks restricted.**

§ 91-2. Parking outside licensed mobile home parks restricted.

- A. No person shall park, locate or place any mobile home outside of a licensed mobile home park in the Village of Merrimac, except that unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for purposes of sales display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; or the premises leased or owned by the owner of such mobile home for

purposes of sales display for a period not exceeding 120 days, provided that no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of such mobile home.

- B. No person shall stop, stand or park a mobile home on any street, alley, or highway within the Village in violation of Chs. 340 to 348, Wis. Stats., or the traffic ordinances and regulations of the Village of Merrimac.^{EN(57)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-3. Mobile home occupancy permits.**

§ 91-3. Mobile home occupancy permits.

- A. Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this chapter may be continued in such location, provided that the owner of the premises on which such unit is located shall apply to the Village Administrator within 60 days after the effective date of this chapter for a use permit showing the date on which such use and occupancy are otherwise in conformity with the applicable laws and regulations of the state and Village. Such nonconforming use shall be automatically terminated upon a discontinuance for any reason for 12 consecutive months or if the total structural additions, repairs and alterations to the mobile home exceed 50% of the net value.^{EN(58)}
- B. The owner or occupant of a mobile home shall, within five days after entering a licensed mobile home park or removing to another park within the Village, obtain a permit from the Village Administrator. Such permits shall be issued only for mobile homes which comply with Subchapter V of Ch. 101, Wis. Stats., or bear a seal, stamp or certificate of the manufacturer guaranteeing that the mobile home is constructed in accordance with the standards of the American National Standards Institute Book A119.1.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-4. Mobile home parking fees.**

§ 91-4. Mobile home parking fees.

There is hereby imposed on each occupied, nonexempt mobile home located in the Village of Merrimac a monthly parking fee as determined in accordance with § 66.0435, Wis. Stats. Said fees shall be paid to the Village Administrator on or before the 10th day of the month following the month for which such fees

are due.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-5. Mobile home park license.**

§ 91-5. Mobile home park license.

It shall be unlawful for any person to establish or operate upon property owned or controlled by him within the Village of Merrimac a mobile home park without having first secured a license therefor from the Village Administrator. The application for such license shall be accompanied by a fee as provided on the Village Fee Schedule.^{EN(59)} The license shall expire one year from the date of issuance. Such parks shall comply with Ch. Comm 95, Wis. Adm. Code, which is hereby adopted by reference.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-6. Duties of licensees, owners and occupants.**

§ 91-6. Duties of licensees, owners and occupants.

- A. Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the Village Administrator and Village Assessor on such homes added to their park or land within five days after arrival of such home on forms furnished by the Village Administrator in accordance with § 66.0435(3)(c) and (e), Wis. Stats.
- B. Occupants or owners of nonexempt mobile homes parked outside of a mobile home park shall remit such fees directly to the Village Administrator as provided in § 91-4. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied, nonexempt mobile home therein and to remit such fees to the Village Administrator as provided in § 91-4.
- C. Owners of nonexempt, occupied mobile homes, upon receipt of notice from the Village Administrator of their liability for the monthly parking permit fee, shall remit to the Village Administrator a cash deposit as set forth in the Village Fee Schedule to guarantee payment of such fees when due to the Village Administrator. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and remit such deposits to the Village Administrator. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the Village, the Village Administrator shall apply said cash deposit to reduce any monthly parking permit fees for

which said owner is liable and refund the balance, if any, to said owner.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-7. Violations and penalties.**

§ 91-7. Violations and penalties.

Any person, firm or corporation who or which fails to comply with any provisions of this chapter or fails to perform any duty imposed hereunder shall, upon conviction thereof, be subject to a penalty as provided in Chapter 1, § 1-4 of this Code, together with the costs of prosecution for each violation, and in default of payment thereof shall be imprisoned in the County Jail of Sauk County, Wisconsin, until payment of such forfeiture and costs, but not exceeding 30 days. Each day of violation of any provision of this chapter shall be deemed to constitute a separate offense.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 91, MOBILE HOMES AND MOBILE
HOME PARKS / § 91-8. When effective; repealer; interpretation.**

§ 91-8. When effective; repealer; interpretation.

This chapter shall take effect and be in force after passage and posting as provided by law, and all ordinances or parts of ordinances inconsistent with or contrary hereto are hereby repealed, except that nothing in this chapter shall be interpreted so as to conflict with the state laws or orders regulating mobile homes or mobile home parks or any of the requirements of any ordinance of the Village of Merrimac not mentioned or made inapplicable by the express terms of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES**

Chapter 97, NUISANCES

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 13 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Adult entertainment establishments -- See Ch. 42.

Animals -- See Ch. 47.

Food and dairy products -- See Ch. 74.

Intoxicating liquor and fermented malt beverages -- See Ch. 83.

Peace and good order -- See Ch. 102.

Solid waste -- See Ch. 123.
Building construction and fire prevention -- See Ch. 161.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-1. Public
nuisances prohibited.**

§ 97-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-2. Public
nuisance defined.**

§ 97-2. Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Greatly offend the public morals or decency.
- D. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-3. Public
nuisances affecting health.**

§ 97-3. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § 97-2 of this chapter:

- A. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

- B. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- D. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Privy vaults and garbage cans which are not flytight.
- F. All noxious weeds and other rank growth of vegetation.
- G. All animals running at large.
- H. The escape of smoke, soot, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.
- I. The pollution of any well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- J. Any use of property, substances or things within the Village of Merrimac emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- K. All abandoned wells not securely covered or secured from public use.
- L. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-4. Public
nuisances offending morals and decency.**

§ 97-4. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 97-2 of this chapter.

- A. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- B. All unlawful gambling devices and slot machines.^{EN(60)}
- C. All places where intoxicating liquor or fermented beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Village of Merrimac.^{EN(61)}
- D. Any place or premises within the Village of Merrimac where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- E. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-5. Public
nuisances affecting peace and safety.**

§ 97-5. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting peace or safety coming within the provisions of § 97-2 of this chapter:

- A. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- B. All buildings erected, repaired or altered within the fire limits of the Village of Merrimac in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of buildings and structures within said district.
- C. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of their color, location, brilliance or manner of operation interfere with the effectiveness of any such device, sign or signal.
- D. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an

intersection or pedestrian crosswalk.

- E. All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street or less than 10 feet above any other public place.
- F. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- G. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- H. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- I. All loud, discordant and unnecessary noises or vibrations of any kind.
- J. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- K. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village, or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- L. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- M. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- N. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- O. Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.
- P. All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in § 129-5 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-6. Abatement
of public nuisances. EN**

§ 97-6. Abatement of public nuisances. EN(62)

- A. Inspection of premises. Whenever complaint is made to the Village Administrator that a public nuisance exists within the Village of Merrimac, he shall promptly notify the Sauk County Sheriff, Village Board or Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Village Administrator. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Administrator.
- B. Summary abatement.
- (1) Notice to owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village Administrator may direct the Sauk County Sheriff to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
 - (2) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Board of Health, in case of health nuisances, and the Sauk County Sheriff, in other cases, shall cause the abatement or removal of such public nuisance.
- C. Abatement by court action. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village Administrator who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Sauk County in accordance with the provisions of Ch. 823, Wis. Stats.
- D. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village of Merrimac or its officials in accordance with the laws of the State of Wisconsin.

costs.

§ 97-7. Recovery of costs.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 97, NUISANCES / § 97-8. Violations
and penalties.**

§ 97-8. Violations and penalties.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER**

Chapter 102, PEACE AND GOOD ORDER

[HISTORY: Adopted by the Village Board of the Village of Merrimac as §§ 12.01 to 12.05 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Adult entertainment establishments -- See Ch. 42.

Animals -- See Ch. 47.

Intoxicating liquor and fermented malt beverages -- See Ch. 83.

Nuisances -- See Ch. 97.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE I, Offenses Endangering Public Safety**

ARTICLE I, Offenses Endangering Public Safety

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE I, Offenses Endangering Public Safety / § 102-1. Firearms; hunting and
trapping. EN**

§ 102-1. Firearms; hunting and trapping. EN(63)

No person, except a sheriff, constable, law enforcement officer or their deputies, shall fire or discharge any firearm, rifle or spring or air gun of any description within the Village of Merrimac or have any firearm, rifle or spring or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, provided that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board or the firing or discharging of BB guns upon private premises by persons over 16 or under direct personal supervision of a parent or guardian. This section shall be deemed to prohibit hunting and trapping within the Village, provided that the Sauk County Sheriff may issue written permits to owners or occupants of private premises to hunt, shoot or trap on such premises if he finds such privileges necessary for the protection of life or property and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE I, Offenses Endangering Public Safety / § 102-2. Arrows, stones,
snowballs and other projectiles.**

§ 102-2. Arrows, stones, snowballs and other projectiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any other person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE I, Offenses Endangering Public Safety / § 102-3. Open burning. EN**

§ 102-3. Open burning. EN(64)

- A. Trash burning and grass fires regulated. No person shall kindle or cause to be kindled any fire in or upon any street, alley or public way or in any park or any public or private ground within the Village, or within any fire lane, unless the same is confined within a wire refuse burner, basket or metal enclosure with a cover attached to prevent the escape of sparks and

burning materials.

- B. No person shall kindle or cause to be kindled any fire within 25 feet of any building or upon the paved portions of any street.
- C. As standard policy, it is prohibited to burn garbage, toxic materials, plastic, petroleum products of any kind, rubber, tires or any other high-odor materials. Burn barrels are to be maintained in inconspicuous rear lot locations and have an attached cover to prevent the escape of sparks and material.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE I, Offenses Endangering Public Safety / § 102-4. Fireworks.**

§ 102-4. Fireworks.

- A. Private use and sale. No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village unless he shall be authorized by a fireworks permit as hereinafter provided. The term "fireworks" as used in this section shall be defined as provided in § 167.10(1), Wis. Stats., and shall be deemed to include all rockets or similar missiles containing explosive fuel.
- B. Firework permits. Fireworks, other than those prohibited by the laws of the State of Wisconsin, may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for such display has been granted by the Village President. All applications shall be referred to the Fire Chief for investigation, and no permit shall be granted unless the Village President from the report of the Chief determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner. Before granting any fireworks permit, the Village President shall require the applicant to post proof of insurance with the Village Administrator.^{EN(65)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE I, Offenses Endangering Public Safety / § 102-5. Obstructing streets,
sidewalks and public grounds.**

§ 102-5. Obstructing streets, sidewalks and public grounds.

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place or private party.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order**

ARTICLE II, Offenses Endangering Public Peace and Good Order

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order / § 102-6.
Disorderly conduct or disturbing the peace.**

§ 102-6. Disorderly conduct or disturbing the peace.

No person shall within the Village of Merrimac:

- A. In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
- B. Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- C. In a public or private place engage in boisterous, unreasonably loud or otherwise disturbing and annoying noises from tires, mufflers, or any other noise created by the use of a motor vehicle or cycle which under the circumstances tends to cause a disturbance.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order / § 102-7.
Noise.**

§ 102-7. Noise.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order / § 102-8. False
fire alarms.**

§ 102-8. False fire alarms.

No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order / § 102-9.
Interference with officers.**

§ 102-9. Interference with officers.

No person shall resist or in any way interfere with any officer of the Village while such officer is doing any act in his official capacity and with lawful authority.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order / § 102-10.
Assisting escape of prisoner. EN**

§ 102-10. Assisting escape of prisoner. EN⁽⁶⁶⁾

No person shall intentionally aid any prisoner or person to escape from the lawful custody of a law enforcement officer or peace officer of the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE II, Offenses Endangering Public Peace and Good Order / § 102-11.
Personating law enforcement officers. EN**

§ 102-11. Personating law enforcement officers. EN(67)

No person shall personate a law enforcement officer or peace officer within the Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE III, Offenses Endangering Public Morals and Decency**

ARTICLE III, Offenses Endangering Public Morals and Decency

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE III, Offenses Endangering Public Morals and Decency / § 102-12.
Gambling, illegal lotteries and fraudulent devices. EN**

§ 102-12. Gambling, illegal lotteries and fraudulent devices. EN(68)

All forms of gambling, illegal lotteries and fraudulent devices and practices are prohibited within the limits of the Village. Any peace officer or law enforcement officer of the Village is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the Village and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE III, Offenses Endangering Public Morals and Decency / § 102-13.
Vagrancy.**

§ 102-13. Vagrancy.

No person shall within the Village wander about the streets, alleys, parks, or other public places either by day or night who, having the physical ability to work, is without any visible means of support and does not seek employment or who derives part of his support from begging, prostitution, pandering, fortune-telling or as a similar imposter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE III, Offenses Endangering Public Morals and Decency / § 102-14.**

Indecent conduct and language.

§ 102-14. Indecent conduct and language.

No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE III, Offenses Endangering Public Morals and Decency / § 102-15.
Curfew.**

§ 102-15. Curfew.

No child 15 years of age or under shall loiter, idle or remain, and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle or remain, in or upon any of the streets, alleys or public places in the Village between the hours of 10:00 p.m. and 6:00 a.m. unless such child is accompanied by a parent, guardian or some person of lawful age having legal custody of such child. This section shall not be construed to prohibit such child from performing an errand or duty if directed by his parent or guardian or of urgent necessity or from pursuing the duties of his employment in an expeditious and orderly manner or from going to or from places of business or amusement or private homes.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE IV, Offenses Against Public and Private Property**

ARTICLE IV, Offenses Against Public and Private Property

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE IV, Offenses Against Public and Private Property / § 102-16.
Destruction or removal of property.**

§ 102-16. Destruction or removal of property.

No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Village or its departments or to any private person without the consent of the owner or proper authority.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE IV, Offenses Against Public and Private Property / § 102-17. Littering.**

§ 102-17. Littering.

No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the Village or within the Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE V, Enforcement**

ARTICLE V, Enforcement

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 102, PEACE AND GOOD ORDER /
ARTICLE V, Enforcement / § 102-18. Violations and penalties.**

§ 102-18. Violations and penalties.

- A. Any person who shall violate any provision of this chapter shall, upon conviction thereof, be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.
- B. In addition to any penalty imposed for violation of Article IV, § 102-16 of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Article IV, § 102-16 of this chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with § 895.035, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE**

Chapter 108, PROPERTY MAINTENANCE

[HISTORY: Adopted by the Village Board of the Village of Merrimac at time of adoption of

Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances -- See Ch. 97.

Peace and good order -- See Ch. 102.

Solid waste -- See Ch. 123.

Streets and sidewalks -- See Ch. 129.

Abandoned and junked vehicles -- See Ch. 144.

Building construction and fire prevention -- See Ch. 161.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-1. Purpose.**

§ 108-1. Purpose.

The purpose of this chapter is to prevent the deterioration of properties, causing premises to become in a state of disrepair, and unattractive conditions caused by lack of proper yard and building maintenance causing a depreciation of real estate property values in the Village and to protect the public health, safety, morals, general welfare, peace, order, public comfort and convenience of the citizens of the Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-2. Exterior structures.**

§ 108-2. Exterior structures.

The property owner shall keep all buildings or structures, including fences, planters, and retaining walls, in a neat and attractive appearance and structurally sound, including, but not limited to, repainting or using preservatives on the exterior from time to time as reasonably required to maintain the same and keeping stone or brick adequately maintained to avoid deterioration. Buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-3. Trees, shrubs, lawns and plantings.**

§ 108-3. Trees, shrubs, lawns and plantings.

Trees, shrubs, lawns, and other plantings, including brush and weeds, shall be controlled and maintained in a neat and attractive appearance. Dead or dying trees, shrubs or brush and weeds shall be removed.

Hedges, bushes, trees and weeds shall be kept trimmed and free from becoming overgrown and unsightly. Grass shall be cut as often as may be necessary to maintain a neat and attractive appearance. Unless otherwise permitted in this chapter, if grass exceeds four inches in height there is a presumption that there is not a neat and attractive appearance. Unimproved lots adjacent to or within established neighborhoods are to be maintained within the established standards of this chapter. Grasses and vegetation on unimproved lots which are not in established areas are to be cut regularly during summer months (minimum monthly) and maintained within the character of adjacent and area properties.

- A. Trees to be kept trimmed. Trees or shrubs located between the lot line and the curb or street in front of any lot or parcel of land within the Village of Merrimac shall be pruned and trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley will provide a clearance not less than 14 feet and a clearance not less than 10 feet over any other public place so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.
- B. Hazardous and infected trees. Any tree or part thereof, whether alive or dead, which the Village Board or its representative shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located. The Village Administrator shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, as determined by the Village Board on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the Village Board or agents designated by it shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Administrator who shall thereupon enter such cost as a special charge against the property.
- C. Cottonwood and Box Elder trees prohibited. No person shall plant within the Village of Merrimac any female tree of the species *Populus deltoides*, commonly called the "Cottonwood," or any tree commonly called the seed bearing Box Elder or *Acer negundo*, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance.
- D. Planting of certain trees restricted. No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, Basswood, Linden, Black Willow or Soft Maple tree, or evergreens, or any fruit or nut tree in or upon tree bank, public street, parkway, boulevard or other public place within the Village of Merrimac unless he shall first secure written permission from the Village Board, or agents designated by it, which shall not approve any such planting if in its opinion said tree will constitute a nuisance to the public or adjoining

property owners or interfere with the safety of the public or the operation of any sewer or water system. The Village Board or agents designated by it shall cause the removal of any tree planted in violation of this subsection. No person shall plant any shrub or tree that grows to a mature height in excess of 30 feet where overhead electric utility wires exist.

- E. Tree bank planting requirements. No person shall hereinafter plant any tree or shrub in or upon any tree bank within the Village of Merrimac except as hereinafter provided:
- (1) On corner lots, no tree or shrub shall be planted within 20 feet from the point of intersection of the curblines of intersecting streets.
 - (2) On lots containing less than a seventy-five-foot frontage, not more than one tree per lot frontage shall be planted. On lots of 75 feet or more, spacing of at least 30 feet between trees shall be maintained.
 - (3) On side yard tree banks, not more than two trees per 120 feet of frontage shall be planted, and the same shall not be nearer than 20 feet to the intersection [as specified in Subsection E(1) hereof] and shall be at least 20 feet from the alley line.
 - (4) In all instances where a tree or trees shall be removed from the tree bank under Subsection B of this section the Village shall replace such tree or trees with an approved variety and in conformity with the planting requirements set forth in this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-4. Storage of property.**

§ 108-4. Storage of property.

No property is to be stored on the premises that is not in good operating condition and not usable on the premises. Unless otherwise permitted in this chapter, the parking and storage of unregistered vehicles and parts thereof are prohibited.

- A. Vehicles and appliances. No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, vehicle parts or tires, or appliances shall be stored upon private residential property or unenclosed within a building upon nonresidential property within the Village of Merrimac for a period exceeding 10 days unless it is in connection with an authorized business enterprise located in an appropriately zoned area maintained in such a manner as not to constitute a public nuisance.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS -- Motor vehicles, recreational vehicles, truck bodies, tractors,

farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways or which are otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

INOPERABLE APPLIANCE -- Any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

MOTOR VEHICLE -- As defined in § 340.01(35), Wis. Stats.

UNLICENSED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS -- Motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

C. Exceptions. This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and in a non-nuisance manner in a properly zoned area when necessary to the operation of such business enterprise or in a storage place or depository maintained in a lawful place and manner or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided that such vehicles are stored in compliance with the ordinances of the Village. Also excepted are motor vehicles registered pursuant to §§ 341.265 and 341.266, Wis. Stats. In other situations the Village Board may issue temporary permits allowing an extension of not to exceed an additional 30 days' time to comply with this section where exceptional facts and circumstances warrant such extension.

D. Enforcement.

- (1) Whenever the Village shall find any vehicles, vehicle parts or tires, or appliances, as described herein, placed or stored in the open upon private property within the Village, it shall notify the owner of said property of the violation of this section. If said vehicle, part thereof or appliance is not removed within five days, the Village Administrator shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.
- (2) If such vehicle or appliance is not removed within 20 days after issuance of a citation, the Village Administrator shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in Chapter 144, § 144-3 of the Village Code by the Village or duly authorized representative. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. If the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed and placed as a special charge on the tax roll.

108-5. Litter.

§ 108-5. Litter.

Outside premises shall at all times be kept clean of all litter. Litter is construed as, but not limited to, any garbage, trash, refuse, debris, boxes, iron, tin, bottles, junk, grass clippings, lawn and garden waste, leaves, tree trimmings, branches, newspapers, wrapping papers, magazines, glass containers, construction materials except where allowed by Village permits, and mechanical equipment, including but not restricted to lawn mowers, chippers, shredders, mixers, and motors.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-6. Enforcement.**

§ 108-6. Enforcement.

This chapter shall be enforced by the Village Administrator or agent thereof. Property owners will be issued a notice in writing and sent via certified mail setting forth the alleged violation and advising the owner that such violation must be corrected. The notice shall specify not more than a maximum of 30 days to correct the violation. After said specified date the Village Administrator or agent thereof shall reinspect for compliance with directives. Noncompliance will invoke penalties as specified in § 138-7. The Village Administrator or agent, if deemed necessary and at his/her sole discretion, may direct any required action to cut lawns and vegetation to comply with the requirements in this chapter. Property owners will be billed for this service at the prevailing Village rates established for property maintenance.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-7. Violations and penalties.**

§ 108-7. Violations and penalties.

Any persons violating any provisions of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code. Each day in noncompliance, after the thirty-day corrective action notice, shall be considered a separate violation and subject to the penalties set forth in this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 108, PROPERTY MAINTENANCE / §
108-8. Appeals.**

§ 108-8. Appeals.

In the event that a property owner receives a written notice from the Administrator and wishes to appeal

the Administrator's determination that the alleged violation constitutes a violation of this chapter, a written appeal must be filed with the Administrator within 15 days of the date that the original notice was forwarded to the property owner. Upon receipt of that appeal, the Administrator shall forward a written report of the circumstances giving rise to the original notice to the Village Board. The Board shall then convene at either a regularly scheduled meeting or a special meeting, but in no instance shall the meeting be held more than 30 days from the date that the appeal is filed. The property owner shall be provided with notice of this hearing and may appear at the hearing to present evidence as to why she/he does not feel that a violation of this chapter has taken place. The Board shall then make findings of fact as it deems appropriate. A copy of the findings and order shall be mailed to the property owner.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY**

Chapter 116, SEWER UTILITY

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 17 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 129.
Water Utility -- See Ch. 152.
Building construction -- See Ch. 161.
Subdivision of land -- See Ch. 176.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-1.
Administration; powers of Village Board.**

§ 116-1. Administration; powers of Village Board.

- A. The management, operation, and control of the sewer system for the Village of Merrimac are vested in the Village Board of said Village; all records, minutes and all written proceedings thereof shall be kept by the Village Administrator, and the Administrator shall keep all the financial records. When used in this chapter, the words "Village" or "Village Board" shall mean the highest Village authority or designated agency.
- B. The Sewer Utility of the Village of Merrimac shall have the power to construct sewer lines for public use and shall have the power to lay sewer pipes in and through the alleys, streets, and public grounds of the Village of Merrimac and generally to do all such work as may be found necessary or convenient in the management of the sewer system. The Village Board shall have power by itself, its officers, agents, and servants to enter upon any land for the purpose of making examination or supervision in the performance of its duties under this

chapter, without liability therefor, and the Board shall have power to purchase and acquire for the Village of Merrimac all real and personal property which may be necessary for the construction of the sewer system or for any repair, remodeling, or additions thereto.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-2.
Condemnation of real estate.**

§ 116-2. Condemnation of real estate.

Whenever any real estate or any easement therein, or use thereof, shall in the judgment of the Village Board be necessary to the sewer system and whenever, for any cause, an agreement for the purchase thereof cannot be made with the owner thereof, the Village of Merrimac shall proceed with all necessary steps to take such real estate easement or use by condemnation in accordance with the Wisconsin Statutes.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-3. Title
to property.**

§ 116-3. Title to property.

All property, real, personal and mixed, acquired for the construction of the sewer system and all plans, specifications, diagrams, papers, books, and records connected with said sewer system and all buildings, machinery, and fixtures pertaining thereto shall be the property of said Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-4. User
rules and regulations; violations.**

§ 116-4. User rules and regulations; violations.

The rules, regulations, and sewer rates of the Village of Merrimac hereinafter set forth shall be considered part of the contract with every person, company, or corporation who or which is connected with the sewer system of the Village of Merrimac, and every such person, company, or corporation by connecting with the sewer system shall be considered as expressing his or its assent to be bound thereby. Whenever any of said rules and regulations, or such others as said Village of Merrimac may hereafter adopt, are violated the service shall be shut off from the building or place of such violation (even though two or more parties are receiving service through the same connection) and shall not be reestablished except by order of the Village Board and on payment of all arrears, the expenses and established charges of shutting off and putting on, and such other terms as the Village Board may determine, and a satisfactory understanding with the party that no further cause for complaint shall arise. In case of such

violation said Village Board, furthermore, may declare any payment made for the service by the party or parties committing such violation to be forfeited, and the same shall thereupon be forfeited. The right is reserved to the Village Board to change said rules, regulations, and sewer rates from time to time as it may deem advisable and to make special rates and contracts in all proper cases.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Amend 07-21-2017 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-5.
Regulations established.**

§ 116-5. Regulations established.

The following rules and regulations for the government of licensed plumbers, sewer users and others are hereby adopted and established:

- A. Plumbers. Only State of Wisconsin licensed plumbers will be permitted to do any plumbing or pipe fitting work in connection with the sewer system.
- B. Users.
 - (1) Application for service. Every person connecting with the sewer system shall file an application in writing with the Village Board, in such form as is prescribed for that purpose. Blanks for such applications will be furnished at the office of the Village Administrator. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application. Persons connected to the sewer system of the Village of Merrimac are referred to herein as "users." The application may be for service to more than one building or more than one unit of service through one service connection and in such case charges shall be made accordingly. If it appears that the service applied for will not provide adequate service for the contemplated use, the Village Board may reject the application. If the Village Board shall approve the application, it shall issue a permit for services as shown on the application.^{EN(69)}
 - (2) Tap permits. After sewer connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions, or attachments unless the party ordering such tapping or other work shall exhibit the proper permit for the same from the Village Administrator.
 - (3) User to keep in repair. All users shall keep their private sewer laterals in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary overburdening of the sewer system. All expenses relating to the connection to the sewer system shall be paid by the applicant. No charge, however, shall be made for the services of the Village Administrator in directing where and in what manner the mains shall be tapped and excavations made in the street for laying sewer laterals.

- (4) User use only. No user shall allow other services to connect to the sewer system through their private sewer lateral.
- (5) User to permit inspection. Every user shall permit the Village Board or its duly authorized agent, at all reasonable hours of the day, to enter his premises or building to examine the sewer laterals and fixtures and the manner in which the drains and sewer connections operate and must at all times, frankly and without concealment, answer all questions put to him relative to its use.
- (6) Utility responsibility. It is expressly stipulated that no claim shall be made against said Village of Merrimac by reason of the breaking, clogging, stoppage, or freezing of any sewer laterals nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs or any other necessary purpose, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer service within any district of said Village of Merrimac, the Village shall, if practicable, give notice to each and every consumer within said Village of the time when such service shall be so shut off.

C. Excavations.

- (1) In making excavations in streets or highways for laying sewer laterals or making repairs, the paving and earth removed must be deposited in a manner that will occasion the least inconvenience to the public.
- (2) No person shall leave any such excavation made in any street or highway open at any time without barricades, and during the night warning lights must be maintained at such excavations..
- (3) In refilling the opening, after the sewer laterals are laid, the earth must be laid in layers of not more than nine inches in depth and each layer throughout compacted to prevent settling, and this work, together with replacing of sidewalks, ballast and paving, must be done so as to make the street as good, at least, as before it was disturbed and satisfactory to the Village Building Inspector. No opening of the streets for tapping the sewer laterals will be permitted when the ground is frozen.

D. Tapping the mains.

- (1) No persons, except those having special permission from the Village Board or persons in its service and approved by it, will be permitted under any circumstances to tap the sewer utility's mains or force mains. The kind and size of the connection with the sewer lateral shall be that specified in the permit or order from said Village Board.
- (2) Sewer mains should always be tapped on the top and not within six inches (15 centimeters) of the joint or within 24 inches (60 centimeters) of another lateral

connection.

E. Installation of sewer laterals.

- (1) All sewer laterals must be installed in accordance with State of Wisconsin Administration Code Chapter SPS 382.
- (2) The building sewer and/or private interceptor main sewer shall be inspected upon completion of placement of the pipe and before backfilling and tested before or after backfilling.

F. Sewer service rates. The sewer service rates are recorded in the Village Fee Schedule.^{EN(71)}

G. Mandatory hookup.

- (1) The owner of each parcel of land adjacent to a sewer main on which there exists a building usable for human habitation or in a block through which such system is extended shall connect to such system within 180 days of notice in writing from the Village Board. Upon failure to so do the Village Board may cause such connection to be made and bill the property owner for such costs. If such costs are not paid within 30 days, such notice shall be assessed as a special tax lien against the property, all pursuant to § 281.45, Wis. Stats.; provided, however, that the owner may within 30 days after the completion of the work file a written option with the Village Administrator stating that he cannot pay such amount in one sum and asking that it be levied in not to exceed five equal installments and that the amount shall be so collected with interest at the rate per annum agreed upon by the Village Board at the completion of the work, the unpaid balance being a special tax lien, all pursuant to § 281.45, Wis. Stats.^{EN(72)}
- (2) In lieu of the above the Village Board at its option may impose a penalty for the period that the violation continues, after 10 days' written notice to any owner failing to make a connection to the sewer system, of an amount equal to 150% of the minimum quarterly charge for sewer service payable quarterly for the period in which the failure to connect continues, and upon failure to make such payment said charge shall be assessed as a special tax lien against the property, all pursuant to § 281.45, Wis. Stats.
- (3) This chapter ordains that the failure to connect to the sewer system is contrary to the minimum health standards of said Village of Merrimac and fails to assure preservation of public health, comfort, and safety of said Village.

H. Maintenance of services.

- (1) All residential, commercial, and industrial sewer laterals are privately owned and must be properly maintained, free of defective conditions, and repaired by the property owner, at the expense of the owner, all the way from their building to the tap (and including the tap) where the private sewer lateral enters the utility-owned sewer main. Where street asphalt, curb and

gutter, and/or sidewalk must be removed to make sewer lateral repairs, the property owner is solely responsible for its replacement or restoration.

- (2) When any sewer service is to be relayed and there are two or more buildings on such service, each building shall be disconnected from such service and a new sewer service shall be installed for each building.

I. Payment of bills.

- (1) Failure to receive bill no penalty exemption. Every reasonable care will be exercised in the proper delivery of sewer bills. Failure to receive a sewer bill, however, shall not relieve any person of the responsibility for payment of sewer rates within the prescribed period nor exempt any person from any penalty imposed for delinquency in the payment thereof.
- (2) Billing. The property owner is held responsible for all sewer bills on premises that he owns. All sewer bills and notices of any nature relative to the sewer service will be addressed to the owner and delivered to the premises referred to on such bill or notice.

J. Penalty for improper use.

- (1) It shall be unlawful for any person to willfully injure the sewer system, or any building, machinery, or fixture pertaining thereto, or to willfully and without authority of the Village Board bore or otherwise cause to leak any tunnel, aqueduct, reservoir, pipe or other thing used in the system for holding, conveying, or distributing sewage.
- (2) It shall be unlawful for any person to introduce sewage into the system which shows an excess of a BOD or suspended solids concentration of over 200 milligrams per liter; a surcharge shall be based on the excess of BOD or suspended solids at a rate as provided in the Village Fee Schedule.^{EN(74)} The Village Board reserves the right to test the sewage at any point within the connection system of the user or consumer.
- (3) No user shall discharge or cause to be discharged any of the following described liquids or solid wastes to any sanitary sewer:
 - (a) Any stormwater, surface water, groundwater, roof runoff, or surface drainage, including sump pump water in the residence.^{EN(75)}
 - (b) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

- (c) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or sticky substance capable of causing obstruction of the flow in sewers or other interference with the proper operation of the sewage works.
 - (d) Any water or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constituting a hazard to humans and animals, or create any hazard in the receiving treatment facility.
 - (e) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
 - (f) Any noxious or malodorous gas or substance capable of creating a public nuisance.
 - (g) Any garbage that has not been properly shredded.
 - (h) Any liquid or vapor having a temperature higher than 150° F.
 - (i) Any water or waste which may contain more than 100 parts per million by weight of fat, oil, or grease.
 - (j) Any waters or wastes having pH lower than 5.5 or higher than 9.0 or having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- K. Damage recovery. The system shall have the right of recovery from all persons of any expense incurred by said system for the repair or replacement of any sewer lateral or main damaged in any manner by any person by the performance of any work under his control or by any negligent act.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Amend 07-21-2017 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-6.
Violations and penalties.**

§ 116-6. Violations and penalties.

Any person who shall violate any of the provisions of this chapter or rules or regulations of the Village Board of Merrimac or who shall connect a sewer lateral without first having obtained a permit therefor or who shall violate any provisions of the Wisconsin Statutes, Wisconsin Administrative Code, or any other materials which are incorporated by reference shall, upon conviction thereof, be subject to a penalty as provided in Chapter 1, § 1-4 of this Code and the costs of prosecution. This section, however, shall not bar the Village Board from enforcing the connection duties set out in §116-5.G. for mandatory hookup.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-7. Septic
tanks and private sewage disposal systems.**

§ 116-7. Septic tanks and private sewage disposal systems.

The maintenance and use of septic tanks and other private sewage disposal systems within the area of the Village of Merrimac serviced by its sewer system are hereby declared to be a public nuisance and a health hazard. From and after October 1, 1978, the use of septic tanks or any private sewage disposal system within the area of the Village of Merrimac serviced by the sewage system shall be prohibited.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-8.
Vacating of premises and discontinuance of service.**

§ 116-8. Vacating of premises and discontinuance of service.

Whenever premises served by the system are to be vacated, or whenever any person desires to discontinue service from the system, the system must be notified in writing. The owner of the premises shall be liable for any damages to the property of the system by reason of failure to notify the system of a vacancy or any such damage which may be discovered having occurred to the property of the system other than through the fault of the system or its employees, representatives, or agents.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-9.
Collection of charges.**

§ 116-9. Collection of charges.

All sewer services, charges, and special assessments shall be a lien on a lot, part of a lot, or land on which sewer services were supplied. All sums which have accrued during the preceding year and which are unpaid by the first day of October of any year shall be certified to the Village Administrator to be placed on the tax roll for collection as provided by Wisconsin Statutes.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-10. Unit
of service.**

§ 116-10. Unit of service.

A unit of service shall consist of any residential, commercial, industrial, or charitable aggregation of space or area occupied for a distinct purpose, such as a residence, apartment, flat, store, office, industrial plant, church, or school. Each unit of service shall be regarded as one consumer.

- A. Suites in houses or apartments with complete housekeeping functions (such as cooking) shall be classed as apartment houses, thus houses and apartments having suites of one, two, or more rooms with toilet facilities but without a kitchen for cooking are classed as rooming houses.
- B. When a consumer's premises has several buildings for which services are eligible and such buildings are used in the same business and connected by the user, the Village Board shall set a separate rate for such complex.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Amend 07-21-2017 /
PART II GENERAL LEGISLATION / Chapter 116, SEWER UTILITY / § 116-11. State
regulations adopted.**

§ 116-11. State regulations adopted.

There are hereby adopted all the rules and regulations of the State Plumbing and State Building Codes and the building rules of the Department of Commerce and the Department of Natural Resources of the State of Wisconsin insofar as the same are applicable to the Village of Merrimac.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE**

Chapter 123, SOLID WASTE

[HISTORY: Adopted by the Village Board of the Village of Merrimac effective 5-1-1982 (§ 10.14 of the Village Code). Amendments noted where applicable.]

GENERAL REFERENCES

**Food and dairy products -- See Ch. 74.
Nuisances -- See Ch. 97.**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-1. Intent.
EN**

§ 123-1. Intent. EN(76)

The Village of Merrimac declares its intention to provide services to collect and dispose of refuse from all residences, to encourage the recycling of refuse in the Village with no user charges for such collection or disposition and to encourage use of commercial refuse containers for high-volume waste generators.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-2.
Definitions.**

§ 123-2. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

COLLECTABLE REFUSE -- Garbage and refuse, and organic material generally resulting from the preparation of food.^{EN(77)}

INDUSTRIAL WASTE -- Includes refuse, rubbish, and garbage resulting from manufacturing or industrial processes.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-3. Items
not collected. EN**

§ 123-3. Items not collected. ^{EN(78)}

The Village shall not be responsible for the disposition of industrial wastes, chemical wastes, lubricants, appliances, tires, household furniture, building materials or other such refuse not specifically provided for in this chapter. The disposal of these materials must be contracted directly with a waste provider.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-4.
Preparation of refuse.**

§ 123-4. Preparation of refuse.

- A. All refuse, not otherwise provided for in this chapter, shall be containerized or otherwise secured to allow efficient handling and to prevent wind and water damage.
- B. No container, bundle, or other single unit of refuse shall exceed 60 pounds in weight or 40 gallons in capacity unless otherwise provided for in this chapter.
- C. Garbage resulting from the waste of animal, fruit, or vegetable matter shall be placed in an area secure from animals unless in a covered container not susceptible to tearing, rain damage, or wind damage, unless otherwise provided for in this chapter, except during

designated collection periods. Paper bags, plastic bags, and cardboard boxes are hereby deemed to be susceptible to tearing, wind damage, and rain damage.

- D. Refuse placed in containers susceptible to tearing, wind damage, or rain damage may not be deposited for collection prior to the day of collection, and empty containers must be removed within 24 hours following collection.
- E. Placement of refuse for disposition shall be at a street bordering the property unless otherwise designated by the Village Administrator.^{EN(79)}
- F. All dumpsters shall be placed on cement or asphalt pads by June 1, 1984.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-5.
Collection schedule.**

§ 123-5. Collection schedule.

Collection will be on Monday mornings unless the collection day falls on a holiday. In that event, the collection will be on the following day.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-6. Cost of
collection.**

§ 123-6. Cost of collection.

There shall be no individual charge for refuse collection or disposition of collectable refuse as defined in § 123-2 of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-7.
Recycling. EN**

§ 123-7. Recycling. ^{EN(80)}

The Village shall provide pickup service for recyclable materials such as tin, aluminum, glass, and other recyclable refuse. This pickup will occur in conjunction with weekly solid waste pickup. Recyclables shall be contained in clear plastic bags. Metal pickup will be provided twice annually. Pickup dates will be published prior to pickup.^{EN(81)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 123, SOLID WASTE / § 123-8. Yard
refuse. EN**

§ 123-8. Yard refuse. EN(82)

Yard refuse, including limbs, leaves and lawn clippings, shall be picked up weekly. EN(83)

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 129, STREETS AND SIDEWALKS**

Chapter 129, STREETS AND SIDEWALKS

[HISTORY: Adopted by the Village Board of the Village of Merrimac as §§ 6.01, 6.02, 6.04, 6.05 and 6.06 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles and play vehicles -- See Ch. 53.

Vehicles and traffic -- See Ch. 144.

Numbering of buildings -- See Ch. 165.

Subdivision of land -- See Ch. 176.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 129, STREETS AND SIDEWALKS / §
129-1. Grades.**

§ 129-1. Grades.

- A. Establishment. The grade of all streets, alleys and sidewalks shall be established by the Village Board, Engineer or Building Inspector and the same recorded by the office of the Village Administrator. No street, alley or sidewalk shall be constructed until the grade thereof is established. EN(84)
- B. Alteration of grade prohibited. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Merrimac by any means whatsoever unless authorized or instructed to do so by the Village Board. All such alterations of grade shall be recorded in the office of the Village Administrator by the Administrator or the officer authorizing the alteration.
- C. Penalty. The penalty for violation of any provision of this section shall be a penalty as

provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 129, STREETS AND SIDEWALKS / §
129-2. Sidewalk construction and repair.**

§ 129-2. Sidewalk construction and repair.

- A. Owner to construct. It shall be the duty of the abutting owner to build, repair, construct and perpetually maintain sidewalks along or upon any street, alley or highway in the Village of Merrimac and to pay the entire cost thereof. Whenever the Village Board shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the Village of Merrimac, it shall proceed according to § 66.0907, Wis. Stats.
- B. Permit required. No person shall hereafter lay, remove, replace, or repair any public sidewalk within the Village of Merrimac unless he is under contract with the Village to do such work or has obtained a permit therefor from the Village Administrator at least seven days before work is proposed to be undertaken. No fee shall be charged for such permits.^{EN(85)}
- C. Specifications. All sidewalks within the Village of Merrimac hereafter shall be repaired, rebuilt and constructed in accordance with the following specifications:
 - (1) Subgrade. The subgrade shall be prepared by excavating to the line, grade and cross section as established by the Village Board. Soft and unsuitable material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. When so specified by the Village Administrator a subbase of sand, sand and gravel or other approved porous material shall be placed under the sidewalk. On embankments the subgrade shall extend at least one foot beyond each edge of the sidewalk.
 - (2) Material. All sidewalks shall be of air-entrained concrete composed of six bags per cubic yard of one-course construction and built to the established line and grade. Gravel shall be of good quality and washed. Concrete shall be mixed thoroughly for a minimum of one minute after all materials have been placed in the mixer.
 - (3) Forms. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Wood forms shall be surfaced plank of at least two inches in thickness except for sharply curved sections. Metal forms shall be of approved section. The forms shall be of full depth of the required walk and shall be of such design as to

permit secure fastening. Forms shall be thoroughly cleaned and oiled before the concrete is placed against them. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. To provide adequate drainage the sidewalk shall slope toward the curb at a minimum rate of 1/4 inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth-inch-radius edging tool.

- (4) Width and thickness. Residential walks shall be four feet in width and not less than four inches thick except within driveway approaches where the minimum thickness shall be eight inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this section. Sidewalks in front of commercial or industrial establishments shall be not less than eight feet in width and five inches in thickness except within driveway approaches where the minimum thickness shall be seven inches.
- (5) Finishing. Before the last finish has set, the sidewalk shall be steel troweled and brushed in a transverse direction. Before final finishing, the surface shall be checked with a ten-foot straight edge, and any areas departing more than 1/8 inch from the testing edge shall be corrected by adding or removing concrete while the concrete in the walk is still plastic.
- (6) Jointing. Transverse, full depth, one-half-inch thick expansion joints of premolded expansion material shall be located every 40 feet and at the property line and where the walk intersects another walk, curblines, buildings or driveway approaches and at buildings, walls, poles and stop boxes. The expansion joint material shall be placed in a neat and workmanlike manner with its upper edge slightly below the finished sidewalk surface. Dummy groove joints for controlled cracking, at least one inch in thickness and 5/16 inch in depth, shall be placed at intervals of approximately five feet. Steel division plates shall be placed at right angles to the center line of the sidewalk at intervals of not less than 15 feet. All joints shall be at right angles to the direction and grade of the walk. Diagonal joints may be used only when approved by the Village Administrator.
- (7) Curing and drying. As soon as any of the concrete work herein mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "impervious coating," "wet fabric" or "paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Specification C156 44T, Method of Test for Efficiency of Materials for Curing Concrete, shall be used. Said specifications are hereby adopted by reference as if fully set forth herein.

Walks shall be kept free from all traffic at normal temperatures for 48 hours and in cold weather (below 50° F.) for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35° F. in any seventy-two-hour period or upon frozen subgrade.

- D. Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 129, STREETS AND SIDEWALKS / §
129-3. Excavations and openings. EN**

§ 129-3. Excavations and openings. EN(86)

- A. Permit required. No person shall make or cause to be made any excavation or opening in any street, alley, highway, sidewalk or other public way within the Village of Merrimac without first obtaining a permit therefor from the Village Administrator.
- B. Regulations governing street and sidewalk openings.
- (1) Frozen ground. No opening in the streets or sidewalks for any purpose shall be permitted when the ground is frozen, except where necessary as determined by the Administrator.
 - (2) Removal of paving. In opening any street or other public way all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing material and together with the excavated material from trenches shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.
 - (3) Protection of public. Every person shall enclose with sufficient barriers each opening which he may make in the streets or public ways of the Village. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his agents or employees. Red lights or torch lamps shall be kept burning from sunset to sunrise, red lights or torch lamps to be placed at each end of the opening in the street or way and other lights sufficient in number and properly spaced to give adequate warning. Except by special permission from the Administrator no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or

damage to persons, vehicles or property of any kind.

- (4) Replacing street surface. In opening any street or sidewalk, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and in the same relation to the remainder as before. Any excavated material which in the opinion of the Administrator is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in perfect repair, the same to be maintained for a period of one year. In refilling the opening, the earth must be puddled or laid in layers not more than six inches in depth and each layer rammed, tamped or flushed to prevent after settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Village may elect to have the Village make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening.
- C. Excavation in new streets limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, it shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street for a period of five years after the date of improvement or repaving unless in the opinion of the Administrator an emergency exists which makes it absolutely essential that the permit be issued.
 - D. Emergency excavations authorized. In the event of an emergency any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit; provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit hereunder.
 - E. Village work excluded. The provisions of this section shall not apply to excavation work under the direction of the Administrator by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.
 - F. Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 129, STREETS AND SIDEWALKS / §
129-4. Obstructions and encroachments.**

§ 129-4. Obstructions and encroachments.

- A. Obstructions and encroachments prohibited. No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsection B.
- B. Exceptions. The prohibition of Subsection A shall not apply to the following:
- (1) Signs or clocks attached to a building which project not more than six feet from the face of such building and which do not extend below any point 10 feet above the sidewalk, street or alley.
 - (2) Awnings which do not extend below any point seven feet above the sidewalk, street or alley.
 - (3) Public utility encroachments duly authorized by state law or the Village Board.
 - (4) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on the sidewalk, provided that such goods, wares, etc., do not remain thereon for a period of more than two hours.
 - (5) Temporary encroachments or obstructions authorized by permit under Subsection C.
 - (6) Excavations and openings permitted under § 129-3.
- C. Street privilege permit.
- (1) When required. Permits for the use of the streets, alleys, sidewalks or other public ways or places of the Village may be granted to applicants by the Village Board for the purpose of moving any building or structure, provided that such applicant has complied with the other requirements of this section and has obtained a building permit if required by Chapter 161, Building Construction, of this Code.
 - (2) Insurance. No street privilege permit shall be issued until the applicant shall execute and file with the Village Administrator a certificate of insurance in an amount determined by the Village Board, conditioned that the applicant will indemnify and save harmless the Village of Merrimac from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the

operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations.^{EN(87)}

- (3) Conditions of occupancy. The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Village Building Inspector for violation thereof:^{EN(88)}
 - (a) Such temporary obstructions shall cover not more than 1/3 of any street or alley.
 - (b) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
 - (c) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width guarded by a closed fence at least four feet high on both sides may be maintained during the period of occupancy.
 - (d) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Village Board, shall continue during all hours of the day and night.
 - (e) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
 - (f) Buildings shall be moved only in accordance with the route prescribed by the Village Board.
 - (g) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permit holder.
 - (4) Termination. All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless a earlier termination date is specified thereon at the direction of the Village Administrator.^{EN(89)}
- D. Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within 24 hours after notice from the Village Board to do so, it shall be the duty of the Village Administrator to remove such obstruction and enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.^{EN(90)}

- E. Penalty. The penalty for violation of any of the provisions of this section shall be a penalty as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 129, STREETS AND SIDEWALKS / §
129-5. Snow and ice removal. EN**

§ 129-5. Snow and ice removal. EN(91)

- A. Responsibility of owner and occupant. The owner, occupant or person in charge of each and every building or structure or unoccupied lot in the Village of Merrimac fronting or abutting any street shall clean or cause to be cleaned the sidewalk in front of or adjoining each such home, building or unoccupied lot as the case may be of snow or ice to the width of such sidewalk within 24 hours after forming and shall cause the same to be kept clear from ice and snow, provided that when the ice has formed on any sidewalk so that it cannot be immediately removed, the persons herein referred to shall keep the same sprinkled with ashes, sawdust, or sand.
- B. Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS**

Chapter 136, TRANSIENT MERCHANTS

[HISTORY: Adopted by the Village Board of the Village of Merrimac at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Food and dairy products -- See Ch. 74.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-1. Registration required.**

§ 136-1. Registration required.

It shall be unlawful for any transient merchant to engage in direct sales within the Village of Merrimac

without being registered for that purpose as provided herein.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-2. Definitions.**

§ 136-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATOR -- The Village of Merrimac Administrator.

CHARITABLE ORGANIZATION -- Includes any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.

MERCHANDISE -- Includes personal property of any kind and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.

PERMANENT MERCHANT -- Any person who, for at least one year prior to the consideration of the application of this chapter to said merchant:

- A. Has continuously operated an established place of business in the Village; or
- B. Has continuously resided in the Village and now does business from his residence.

PERSON -- All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

TRANSIENT MERCHANT -- Any individual who engages in the retail sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of such place. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this definition, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitute the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-3. Exemptions.**

§ 136-3. Exemptions.

The following shall be exempt from all provisions of this chapter:

- A. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- B. Any person selling merchandise at wholesale to dealers in such merchandise.
- C. Any person selling Wisconsin agricultural products which the person has grown.
- D. Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in his regular course of business.
- E. Any person who has an established place of business where the merchandise is being sold or is offered for sale on a regular basis and in which the buyer has initiated contact with, and specifically requested a home visit by, said person.
- F. Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- G. Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- H. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- I. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Administrator proof that such charitable organization is registered under § 440.42, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 440.42, Wis. Stats., or which is exempt from that statute's registration requirements shall be required to register under this chapter.
- J. Any person who claims to be a permanent merchant but against whom complaint has been made to the Village Administrator that such person is a transient merchant, provided that there is submitted to the Village Administrator proof that such person has leased for at least one year, or purchased, the premises from which he or she is conducting business or proof that such person has conducted such business in this Village for at least one year prior to the date the complaint was made.
- K. Any individual licensed by an examining board as defined in § 15.01(7), Wis. Stats.
- L. Minors under 18 years of age who are residents of the Village.

**PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-4. Registration procedure.**

§ 136-4. Registration procedure.

- A. Required registration information. Applicants for registration must complete and return to the Village Administrator a registration form furnished by the Village Administrator which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any.
 - (2) Height, weight, color of hair and eyes, and date of birth.
 - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by or whose merchandise is being sold.
 - (4) A temporary address and telephone number from which business will be conducted, if any.
 - (5) The nature of the business to be conducted and a brief description of the merchandise offered and any services offered.
 - (6) The proposed method of delivery of merchandise, if applicable.
 - (7) The make, model and license number of any vehicle to be used by the applicant in the conducting of his business.
 - (8) The last cities, villages, or towns, not to exceed three, where the applicant conducted similar business just prior to making this registration.
 - (9) Place where the applicant can be contacted for at least seven days after leaving this Village.
 - (10) A statement as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.
- B. Identification and certification. Applicants shall present to the Village Administrator for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required.
 - (2) A state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.

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

C. Registration fee and statement.

- (1) At the time of filing an application, a registration fee as prescribed in the Village Fee Schedule shall be paid to the Village Administrator to cover the cost of investigation of the facts stated in the application and for processing said registration. Every member of a group must file a separate registration form.
- (2) The applicant shall sign a statement appointing the Village Administrator his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
- (3) Every applicant shall pay a registration fee as prescribed in the Village Fee Schedule.
- (4) Upon payment of said fees and the signing of said statement, the Village Administrator shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in § 136-5B below.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-5. Investigation.**

§ 136-5. Investigation.

- A. Upon receipt of each application, the Village Administrator shall refer it immediately to the Sauk County Sheriff for an investigation of the statements made in such registration, said investigation to be completed within five days from the time of referral.
- B. The Village Administrator shall refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the

applicant failed to comply with any applicable provision of § 136-4B above.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-6. Appeals.**

§ 136-6. Appeals.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of §§ 68.01 through 68.16, Wis. Stats.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-7. Prohibited practices; disclosure requirements.**

§ 136-7. Prohibited practices; disclosure requirements.

A. Prohibited practices.

- (1) A transient merchant shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No transient merchant shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a

one-hundred-foot radius of the source.

- (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

B. Disclosure requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of the merchandise or services he offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in § 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.
- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount paid in advance; whether full, partial or no advance payment is made; the name, address and telephone number of the seller; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-8. Record of violations.**

§ 136-8. Record of violations.

The Sauk County Sheriff shall report to the Village Administrator all convictions for violations of this chapter, and the Village Administrator shall note any such violation on the record of the registrant convicted.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 136, TRANSIENT MERCHANTS / §
136-9. Revocation of registration.**

§ 136-9. Revocation of registration.

- A. Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; violated any provision of this chapter; or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- B. Written notice of the hearing shall be served personally or pursuant to § 136-4C on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of the hearing and a statement of the acts upon which the hearing will be based.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC**

Chapter 144, VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Village Board of the Village of Merrimac as §§ 4.01, 4.02, 4.03, 4.04, 4.06 and 4.07 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

- Bicycles and play vehicles -- See Ch. 53.**
- Mobile homes -- See Ch. 91.**
- Nuisances -- See Ch. 97.**
- Peace and good order -- See Ch. 102.**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC / §
144-1. State traffic laws adopted by reference.**

§ 144-1. State traffic laws adopted by reference.

- A. State traffic laws adopted. Except as otherwise specifically provided in this chapter, all provisions of Chs. 341 to 348 and 350, Wis. Stats., describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecuting, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter.

Sections of Chapter 350 adopted by reference shall include but not be limited to the following: EN(92)

350.01	Definitions
350.02	Operation of snowmobiles on or in the vicinity of highways
350.03	Right-of-way
350.04	Snowmobile races, derbies, and routes
350.047	Local ordinances to be filed
350.05	Operation by youthful operators restricted
350.07	Driving animals
350.08	Owner permitting operation
350.09	Head lamps, tail lamps and brakes, etc.
350.10	Miscellaneous provisions for snowmobile operation
350.11	Penalties

B. Other laws adopted. There are also hereby adopted by reference the following sections of the Wisconsin Statutes but the prosecution of such offenses under this chapter shall be as provided in Chs. 340 to 348, Wis. Stats., and the penalty for violation thereof shall be limited to a forfeiture as provided in § 144-5 of this chapter.

941.01(1)	Negligent operation of vehicle off highway
346.935	Intoxicants in motor vehicles

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC / §
144-2. Parking regulations.**

§ 144-2. Parking regulations.

A. Parking limitations.

- (1) No parking. No person shall at any time park any vehicle on the south side of Church Street for a distance of 200 west from its intersection with School Street.
- (2) No person shall at any time park, stop or leave standing any vehicle on the north side of Church Street from a point 484 feet west of the intersection of School Street running east to a point located 288 feet west of the intersection of School Street. Said no-parking zone shall be designated by signs specifying "No Parking At Any Time."

B. Additional parking regulations.

- (1) No person shall park or stand any vehicle for a period of time longer than 24 consecutive hours on any street, alley, or parking area in said Village.
- (2) It shall be unlawful for the operator of any vehicle to park such vehicle in any space appropriately marked for "No Parking" as so designated officially.
- (3) No person shall stand or park a vehicle on any street or alley in said Village for the purpose of repairing such vehicle or for storage purposes.
- (4) No person shall park any car with trailer attached or any vehicle longer than 20 feet on any street where angle parking is so provided and allowed.
- (5) No person shall park any vehicle or other piece of equipment on any tree bank in said Village, except in such areas where standup curbing does not exist. No person shall park any vehicle or other piece of equipment on any portion of the street right-of-way that has been designated as sidewalk area in said Village.
- (6) All vehicles shall be parked parallel to the curb except on such streets where angle parking spaces are so designated and so provided by appropriate markings.

C. Snow removal regulations and emergency regulations as to parking. In addition to particular parking restrictions contained in this chapter, the following restrictions shall apply:

- (1) Between November 15 and April 15 of each and every year hereafter, no person shall park, stop or leave standing any vehicle between the hours of 2:00 a.m. and 8:00 a.m. on the even-numbered side of the street on the even-numbered calendar days and on the odd-numbered side of the street on the odd-numbered calendar days.^{EN(93)}
- (2) In addition to Subsection C(1), at no time during the entire year shall any person park, stop or leave standing upon the paved portion any vehicle at any time on either side of any street or alley which has a width of 20 feet or less, measured from face of curb to face of curb, or having a paved width of 20 feet or less.
- (3) In addition to the foregoing, when deemed necessary for the cleaning, repairing,

clearing, removal of snow, ice or other debris or emergency caused by an act of God or special conditions, the Village Administrator or his designated agent or subordinates are authorized to make temporary emergency regulations regarding traffic and parking as conditions require for the safety of motorists, workers and residents of the Village. Notice of these emergency regulations in this Subsection C(3) shall be given by posting, within a reasonable time before such regulations are to become effective, a reasonably conspicuous sign or signs or by other appropriate and convenient means.

- (4) Any vehicle in violation of either Subsection C(1), (2) or (3) hereof shall be ticketed and shall be subject to a forfeiture as provided in Chapter 1, § 1-4 of this Code and shall in addition thereto be towed away at the expense of the owner.
- (5) Notice of alternate side parking contained in Subsection C(1) hereof shall be given by erection of appropriate signs as required by the Wisconsin Statutes at the entrances to the Village on Highway 78 at or near the Village limits, at the ferry landing on Wisconsin Street and on Baraboo Street just south of the intersection of Cemetery Street.^{EN(94)}

D. Penalty. Violation of this section shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC / §
144-3. Abandoned vehicles.**

§ 144-3. Abandoned vehicles.

- A. Prohibited acts. No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public or private property for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any Village street or highway or on any public or private property within the Village without the permission of the owner for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance.
- B. Removal and impoundment of abandoned vehicles. Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under Subsection C, except that if the Sauk County Sheriff or his duly authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the Village prior to expiration of the impoundment period upon determination by the Sauk County Sheriff or his duly authorized representative that the vehicle is not wanted for evidence or other reason.

C. Disposal of abandoned vehicles.

- (1) If the Sauk County Sheriff or his duly authorized representative determines that the value of the abandoned vehicle exceeds \$100, he shall notify the owner and lienholders of record by certified mail that the vehicle has been deemed abandoned and impounded by the Village and may be reclaimed within 15 days upon payment of accrued towing, storage and notice charges and if not so reclaimed shall be sold.
 - (a) In the event an abandoned vehicle determined to exceed \$100 in value is not reclaimed within the period and under the condition as provided above, it may be sold by sealed bids. The description of the vehicle and the terms of sale shall be published as a Class 1 notice five days before the sale.
 - (b) After deducting the expense of impoundment and sale, the balance of the proceeds, if any, shall be paid into the treasury.
- (2) Any abandoned vehicle which is determined by the Sauk County Sheriff or his duly authorized representative to have a value of less than \$100 may be disposed of by direct sale to a licensed salvage dealer upon determination that the vehicle is not reported stolen.

D. Owner responsible for impoundment and sale costs. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.

E. Notice of sale or disposition. Within five days after the sale or disposal of a vehicle as provided in Subsection C(1) or (2), the Sauk County Sheriff or his duly authorized representative shall advise the Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposition on a form supplied by the Division. A copy of such form shall also be given to the purchaser of the vehicle. A copy shall also be retained on file in the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC / §
144-4. Official traffic signs and signals. EN**

§ 144-4. Official traffic signs and signals. EN(95)

A. Village Administrator authorized to procure and erect signs and signals. The Village Administrator is hereby authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals and markings conforming to the rules of the State Highway Division giving such notice of the provisions of this chapter as required by state law. Signs

shall be erected in such locations and manner as the Village Board shall determine will best effect the purposes of this chapter and give adequate warning to users of the street or highway.

- B. Removal of unofficial signs and signals. The Village Administrator shall have the authority granted by § 349.09, Wis. Stats., and is hereby directed to order the removal of a sign, signal, marking or device placed, maintained or displayed in violation of this chapter or § 346.41, Wis. Stats. Any charge imposed on a premises for removal of such an illegal sign, signal or device shall be reported to the Village Board at its next regular meeting for review and certification.^{EN(96)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC / §
144-5. Violations and penalties.**

§ 144-5. Violations and penalties.

The penalty for violation of any provision of this chapter shall be a forfeiture as hereinafter provided together with the cost of prosecution imposed as provided in §§ 345.20 to 345.53, Wis. Stats.

- A. Uniform offenses. Except as provided in Subsection B for nonmoving traffic offenses, forfeitures for violation of any provision of Chs. 341 to 348, Wis. Stats., adopted by reference in § 144-1 of this chapter shall conform to forfeitures for violation of the comparable state offense, including any variations or increases for second offenses.
- B. Parking. The forfeiture for violations of parking regulations in § 144-2 or other provisions of this chapter for which no penalty is otherwise established shall be as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 144, VEHICLES AND TRAFFIC / §
144-6. Enforcement.**

§ 144-6. Enforcement.

This chapter shall be enforced in accordance with the provisions of §§ 345.20 to 345.53, Ch. 799 and § 66.0114, Wis. Stats.

- A. Uniform citation. The uniform traffic citation promulgated under § 345.11, Wis. Stats., shall be used for all moving traffic violations under this chapter.
- B. Parking citations. Citations for all nonmoving traffic violations under this chapter shall

conform to § 345.28, Wis. Stats., and shall permit direct mail payment of the applicable minimum forfeiture to the Sauk County Sheriff's Department within three days of the issuance of the citation in lieu of court appearance. The issuing officer shall specify thereon the amount of the applicable forfeiture as provided in this chapter.

- C. Notice of demerit points and receipt. Every officer accepting a forfeited penalty or money deposit under this chapter shall receipt therefor in triplicate as provided in § 345.26(3)(b), Wis. Stats. Every officer accepting a stipulation under the provisions of this chapter shall comply with the provisions of §§ 343.27, 343.28, 345.26(1)(b) and 345.27(2), Wis. Stats., and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under § 345.11, Wis. Stats.
- D. Forfeitures in treasury. Any officer accepting deposits or forfeited penalties under this chapter shall deliver them to the Sauk County Sheriff within 24 hours.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY**

Chapter 152, WATER UTILITY

[HISTORY: Adopted by the Village Board of the Village of Merrimac as Ch. 19 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Sewer Utility -- See Ch. 116.
Building construction -- See Ch. 161.
Subdivision of land -- See Ch. 176.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections**

ARTICLE I, Cross-Connections

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-1. Definitions.**

§ 152-1. Definitions.

As used in this article, the following terms shall have the meaning indicated:

CROSS-CONNECTION -- Any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the Village of Merrimac water system and the other water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-2. Prohibited acts.**

§ 152-2. Prohibited acts.

No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular water supply of Village of Merrimac may enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Merrimac Municipal Water Utility and by the Wisconsin Department of Natural Resources in accordance with Chapter NR 811 of the Wisconsin Administrative Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-3. Inspections.**

§ 152-3. Inspections.

It shall be the duty of the Merrimac Municipal Water Utility to cause inspections to be made of all properties served by the public water system where cross-connection with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Merrimac Municipal Water Utility and as approved by the Wisconsin Department of Natural Resources.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-4. Right of entry.**

§ 152-4. Right of entry.

Upon presentation of credentials, the representative of the Merrimac Municipal Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of Village of Merrimac for cross-connections. If entry is refused, such representative shall obtain a special inspection warrant under § 66.0119, Wis. Stats. On request the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-5. Enforcement; water service discontinued.**

§ 152-5. Enforcement; water service discontinued.

The Merrimac Municipal Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this article exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Ch. 68, Wis. Stats., except as provided in § 152-6. Water service to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this article.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-6. Emergencies.**

§ 152-6. Emergencies.

If it is determined by the Merrimac Municipal Water Utility that a cross-connection or an emergency endangers public health, safety or welfare and requires immediate action, and written finding to that effect is filed with the Village Administrator of the Village of Merrimac and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Ch. 68, Wis. Stats., within 10 days of such emergency discontinuance.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-7. Adoption of State Plumbing Code.**

§ 152-7. Adoption of State Plumbing Code.

The Village of Merrimac adopts by reference the State Plumbing Code of Wisconsin, being Chapters Comm 81 to 87 of the Wisconsin Administrative Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE I,
Cross-Connections / § 152-8. Effect on other regulations.**

§ 152-8. Effect on other regulations.

This article does not supersede the State Plumbing Code or Chapter 161, Building Construction, of the Village Code but is supplementary to them.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE II,
Water Service Outside Corporate Limits**

ARTICLE II, Water Service Outside Corporate Limits

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE II,
Water Service Outside Corporate Limits / § 152-9. Limitation of service area.**

§ 152-9. Limitation of service area.

In order to provide adequate fire protection for persons and property within the corporate limits of the Village and so as to ensure protecting the public health and safety of the residents of the Village without placing an undue financial burden upon the Village taxpayers, and to effectively coordinate Water Utility activities, and for the purpose of conserving the available water supply, it is determined that it is necessary to specifically limit the territory in unincorporated areas which the Municipal Water Utility holds itself out to serve.^{EN(97)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices**

ARTICLE III, Rates, Rules and Practices

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-10. Commencement of service.**

§ 152-10. Commencement of service.

The Water Utility of the Village of Merrimac shall commence giving service as soon as the Utility property is in proper condition to furnish such service. Upon completion of the construction of the Utility there shall be furnished to the Public Service Commission of Wisconsin a statement of cost figures as to materials and labor or as otherwise required by the Commission.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-11. Management.**

§ 152-11. Management.

The Utility shall be managed by the Village Board until such time as a separate Utility Board is created or until the management is placed in some other body or committee.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-12. Supervision. EN**

§ 152-12. Supervision. EN(98)

The Utility shall be supervised by the Village Administrator. It shall be his duty to supervise the operation of the Utility, to carry out the lawful orders of the Village Board and the rules, regulations and orders of the Public Service Commission of Wisconsin, and to comply with the ordinances, rules and regulations of the Village of Merrimac and the applicable laws of the State of Wisconsin.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-13. Records and reports.**

§ 152-13. Records and reports.

The Village Board shall provide for the keeping of accurate records and customer accounts for the Utility and books relating to the capital and operating affairs of the Utility and make periodic reports in the manner required by state law and by rules, regulations or orders of the Wisconsin Public Service

Commission and shall provide for the mailing of quarterly bills to customers.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-14. Rates. EN**

§ 152-14. Rates. EN(99)

From and after the date specified for the commencement of service, the following rates and rules prescribed by the Wisconsin Public Service Commission shall be and they are hereby placed in effect:

A. Fire Protection Service: F-1.

- (1) For fire protection service to the Village of Merrimac, the annual charge shall be as provided on the Village Fee Schedule^{EN(100)} to cover the use of mains and hydrants up to and including the terminal hydrant and connection on each line of main existing upon the completion of the initial installation.
- (2) The above charge covers the initial plant, including 54 hydrants and 19,050 feet of water main.
- (3) For all subsequent extensions of fire protection service a charge per linear foot of pipe shall be assessed per annum on the basis of the length of main put into use between hydrants placed, plus a fixed charge as provided on the Village Fee Schedule per hydrant set for each hydrant added to the system.
- (4) This service shall include the use of hydrants for fire protection only and such quantities of water as may be demanded for the purpose of extinguishing fire only. For all other purposes, the meter rates set forth herein shall apply.

B. Public Service: Mps-1.

- (1) Water supplied to public buildings, schools, or other public places shall be metered and the general service metered rates per the Village Fee Schedule applied.
- (2) Water supplied for flushing sewers, street sprinkling, flooding rinks and pools, or other like intermittent use shall be metered where meters can be set to measure such use and a charge as provided on the Village Fee Schedule applied.
- (3) Where placement of meters is not feasible, the Village Administrator shall estimate the gallons of water used based on pressure, size of orifice and period of flow or other method, such as the quantity of containers of known capacities.

C. Unit of service.

- (1) A unit of service shall consist of any aggregation of space or area occupied for a distinct purpose, such as a residence, apartment, flat, store, office or factory, which is equipped with one or more fixtures for rendering water service, separate and distinct from other users. Each unit of service shall be regarded as one customer and the surcharge for additional consumers on a meter assessed accordingly.
- (2) Suites in houses, or apartments where complete housekeeping functions (such as cooking) are not exercised, shall be classed as rooming houses. Thus houses and apartments having suites of one, two, or more rooms with toilet facilities but without kitchens for cooking are classed as rooming houses.
- (3) When a consumer's premises has several buildings each supplied with service and metered separately, the full service charge will be billed for each meter separately, but the readings will be cumulated. If these buildings are all used in the same business and are connected by the consumer, they can be metered in one place. If the Utility, for its own convenience, installs more than one meter, the readings will be cumulated for billing.

D. Operating rules and regulations: X-1. The standard rules for operation of a small municipal water utility normally prescribed by the Public Service Commission, with any modifications agreed upon, shall be filed by the Utility upon commencement of service.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-15. Compulsory hookup.**

§ 152-15. Compulsory hookup.

The owners of all homes, buildings or properties used for human habitation or use or occupancy situated within the Village and abutting on any street, alley or right-of-way in which a public water main is located, or within 300 feet thereof, are hereby required, at their own expense, to connect directly with the public water main in accordance with the provisions of this article within six months after date of official notice to do so upon due notice given by the Village Board.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-16. Standby charges. EN**

§ 152-16. Standby charges. EN(101)

The owner of each property to which water service has been provided by the construction of water mains immediately adjacent thereto shall be charged and shall pay for the availability of said water

service. Such standby charges will be applicable to each property, whether the premises are improved or not, if the property is platted or nonagricultural land. Standby charges for improved property which has not connected within the time allotted by the Village for making such connection shall be as provided on the Village Fee Schedule.^{EN(102)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-17. Collection of delinquent bills.**

§ 152-17. Collection of delinquent bills.

Delinquent bills may be collected by action at law and if not so collected may be placed upon the tax roll in the manner provided by § 66.0809, Wis. Stats., and collected as provided by law.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-18. Disposition of funds.**

§ 152-18. Disposition of funds.

All money of the Utility shall be kept separate and apart from other Village funds and shall be disbursed by the Administrator of the Village. The Utility money shall be allocated as provided by ordinance to the Waterworks Operation and Maintenance Fund, the Waterworks Depreciation Fund and the Waterworks Bond and Interest Special Redemption Fund and in such other manner or to such additional funds as may be provided by the Public Service Commission of Wisconsin.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-19. Deposit and guarantee rules.**

§ 152-19. Deposit and guarantee rules.

- A. For property owners. A deposit may be required by the Village Administrator or the Board if the credit of the consumer has not been established satisfactorily to the Utility.^{EN(103)}
- B. For renters. A deposit may be required by the Village Administrator of all renters using water service to guarantee the payment of water bills by a renter and may also be required of renters where the lessor or property owner has notified the Utility in writing that the water bills are to be paid by the renter. The requirement of any such deposit shall, however, notwithstanding notice from any property owner to the contrary, not operate as a waiver by the Village of Merrimac of its full right to place delinquent bills upon real estate as a lien in

the event of nonpayment, and it shall not constitute a release of the property owner of responsibility to the Village.^{EN(104)}

- C. Return of deposit. The deposit shall be refunded upon request of the owner thereof upon termination of service if all water bills with penalties have been paid in full and shall be refunded also upon request of the customer owner after two years of continuous service during which time all water bills have been paid within the prompt payment period. Such deposit shall be returned to the owner thereof by the Utility without request after three years of continuous service during which time all water bills have been paid in full within the prompt payment period if the customer's credit standing is satisfactory.
- D. New or additional deposit. A new or additional deposit may be required upon reasonable written notice of the need for such a requirement in any case where a deposit has been refunded or is found to be inadequate or where the customer's credit standing is not satisfactory to the Utility. The water service of any customer who fails to comply with any of these requirements may be disconnected upon five days' written notice.^{EN(105)}
- E. Guarantee. The Utility may accept, in lieu of a cash deposit, a contract signed by a guarantor satisfactory to the Utility, whereby payment of a specified sum not exceeding the cash deposit requirement is guaranteed. The term of such contract shall be indeterminate, but it shall automatically terminate when the customer gives notice to the Utility of discontinuance of service at the location covered by the guarantee agreement or six months after discontinuance of service, or at the guarantor's request upon 30 days' written notice to the Utility.
 - (1) Upon termination of a guarantee contract or whenever the Utility deems the same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required upon reasonable written notice to the customer. The water service of any customer who fails to comply with these requirements may be disconnected upon five days' written notice.
 - (2) The guarantor shall receive copies of all final disconnect notices sent to the customer whose account he has guaranteed.
 - (3) In the event that the Utility is not able to collect any bill for water service even though deposit and guarantee rules are on file, the bill may be put upon the tax roll as provided by law.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-20. Reconnection charge.**

§ 152-20. Reconnection charge.

- A. Where a customer has contracted for yearly service and at his request service has been discontinued prior to the expiration of his contract period and his account is not delinquent and where thereafter he requests the reconnection of service in the same location, a reconnection charge as provided in the Village Fee Schedule, payable in advance, shall be collected.^{EN(106)}
- B. A connection charge as provided in the Village Fee Schedule shall also be required from consumers whose services are disconnected because of nonpayment of bills when due (not including disconnection for failure to comply with deposit or guarantee rules).
- C. A consumer shall be considered as the same consumer provided that the reconnection is requested for the same location by any member of the same family or, if a place of business, by any partner or employee of the same business.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-21. Failure to read meters.

§ 152-21. Failure to read meters.

- A. Where the Utility is unable to read a meter after two successive trials, that fact shall be plainly indicated upon the quarterly bill, the minimum charge assessed and the difference adjusted with the consumer when the meter is again read, that is, the bill for the succeeding quarter will be computed with the gallons or cubic feet in each block of the rate schedule doubled and credit will be given on that bill for the amount of the minimum bill paid the preceding quarter.
- B. If the meter is damaged or fails to operate for any reason, the Utility will render a bill for the current period, based on an average of the last two quarters, provided that there is no particular reason why the use during that period has not been normal. In case the last two periods cannot be properly used, then the bill shall be estimated by some equitable method.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-22. Charges for water wasted due to leaks.

§ 152-22. Charges for water wasted due to leaks.

When the meter registers losses due to pipe leaks, the Utility shall determine whether or not the defect in the piping or equipment was known to the consumer or, being known, he had used his best efforts to correct the condition. If the Utility is satisfied that the loss occurred without the consumer's knowledge, or having known about it he had tried to correct the condition, the Utility may determine as nearly as possible the amount of the loss by comparison with the use of the water during a like period, and the excess may be billed at the lowest step in the rates. If, however, the consumer knew of the leak and failed to give proper attention to it, the Utility will bill for the total consumption shown by its meter at regular rates. EN(107)

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-23. Surreptitious use of water.**

§ 152-23. Surreptitious use of water.

- A. When the Utility has reasonable evidence that a consumer is obtaining his supply of water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the Utility service being delivered to his equipment, the Utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference, and such bill shall be payable subject to a twenty-four-hour disconnection of service. When the Utility shall have disconnected service to the consumer, service may be reinstated upon the following conditions:
- (1) The consumer will be required to deposit with the Utility an amount sufficient to guarantee the payment of the consumer's bills for Utility service to the Utility.
 - (2) The consumer will be required to pay the Utility for any and all damages to its equipment on the consumer's premises due to such stoppage or interference with its metering.
 - (3) The consumer must further agree to comply with reasonable requirements to protect the Utility against further losses.
- B. Sections 98.26 and 943.20, Wis. Stats., as relating to water service, are hereby adopted and made a part of these rules.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-24. Water for construction.**

§ 152-24. Water for construction.

When water is wanted for construction purposes, or for filling cisterns, tanks, or tank wagons, steam tractors, or rollers, or portable steam boilers, an application therefor shall be made to the Village Administrator, in writing, upon application provided for that purpose in the Water Utility office, giving a statement of the amount of construction work to be done or the size of the cistern, boiler tank or tank wagon to be filled. Payment for the water construction shall be made in advance at the scheduled rates. The service pipe must be carried inside the cellar wall from where the water must be drawn. No connection with the service pipe at the curb shall be made without special permission from the Village Administrator.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-25. Use of hydrants for construction. EN

§ 152-25. Use of hydrants for construction. EN(108)

In cases where no other supply is available, permission may be granted by the Village Administrator to use a hydrant. No hydrant shall be used until it is equipped with a sprinkling valve. In no case shall any valve be moved except by a member of the Water Utility. When the contractor has finished using the hydrant he must notify the Water Utility to that effect. The minimum charge for the use of water from a hydrant will be as provided on the Village Fee Schedule, but including the applicable gallon usage rate as set by the Village of Merrimac.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-26. Emergency and occasional service.

§ 152-26. Emergency and occasional service.

- A. Water used for construction work must be covered by a written permit which can be obtained only from the Village Administrator. In no case will any employee of the Utility turn on water for construction work unless the contractor first presents a permit. Upon completion of the construction work the contractor must return the original permit to the Water Utility together with a statement of the actual amount of construction work performed.
- B. Consumers shall not allow contractors, masons or other persons to take water from their premises without first showing a permit from the Utility. Any consumer failing to comply with this provision will have his water service discontinued. He shall be subject to a fine as set forth in § 152-54.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,

Rates, Rules and Practices / § 152-27. Operation of valves and hydrants.

§ 152-27. Operation of valves and hydrants.

No person shall without authority of the Village Administrator or the Village Board operate any Village valve connected with the street or supply mains or open any fire hydrant connected with the distribution system except for the purpose of extinguishing a fire or intentionally or wantonly injure or impair the same. Permits for the use of hydrants apply only to such hydrants as may be designated for such use. Owners or operators of motor vehicles will be held liable for the cost of repair or replacement, if necessary, of any hydrant damaged by being hit by a motor vehicle, and the Village shall not be responsible for damage to any motor vehicle by reason of such accident or be responsible for injuries to persons riding in such motor vehicles.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-28. Hydrant connections.

§ 152-28. Hydrant connections.

In the use of a fire hydrant supply, the hydrant valve will be set at the proper opening by the Water Utility when the sprinkling valve is set and the flow of water must be regulated by means of the sprinkling valve. If the water is to be used through iron pipe connections, all such pipe installations shall have a swing joint to facilitate quick disconnection from the fire hydrant.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-29. Right to open hydrants.

§ 152-29. Right to open hydrants.

Only such persons as shall be authorized by the Village Administrator or the Chief Engineer of the Fire Department shall be permitted to open any fire hydrant for any purpose whatsoever, and no one except such persons shall be permitted to take the hydrant wrenches or wheels or suffer the same to be taken from any fire engine house, except for Fire Department purposes.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-30. Temporary water supply.

§ 152-30. Temporary water supply.

- A. An applicant for temporary water supply on a meter basis shall make and maintain a monetary deposit as provided by the Village Fee Schedule for each meter installed as security for payment for use of water and for such other charges which may arise from the use of the supply.
- B. All moneys deposited as security for payment of charges arising from the use of temporary water supply on a metered basis, or for the return of a sprinkling valve or reducer, if the water is used on an unmetered basis, will be refunded to the depositor on the termination of the use of water, the payment of all charges levied against the depositor and the return of the wheel and reducer.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-31. Inspections.**

§ 152-31. Inspections.

Any officer or authorized employee of the Utility shall have the right of access during reasonable hours to the premises supplied with service for the purpose of inspection or for the enforcement of the Utility's rules and regulations. The Utility will make a systematic inspection of all unmetered water taps at least once every 12 months for the purpose of checking waste and unnecessary use of water.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-32. Vacation of premises.**

§ 152-32. Vacation of premises.

When premises are to be vacated, the Utility shall be notified in writing at once so that it may remove the meter and shut off the supply at the curb cock. The owner of the premises shall be liable to prosecution for any damage to the property of the Water Utility by reason of failure to notify the Utility of vacancy.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-33. Compliance with rules.**

§ 152-33. Compliance with rules.

All persons receiving a water supply from the Water Utility of the Village of Merrimac or who may hereafter receive a water supply from the Water Utility shall be subject to the requirements of this article

and other applicable rules and regulations as filed with the Public Service Commission of Wisconsin.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-34. Claims for damages.**

§ 152-34. Claims for damages.

No person shall enter a claim for damage against the Village of Merrimac as a Water Utility, or any officer thereof, for damage to any pipe, fixture, or appurtenance by reason of interrupted water supply, or variation of pressure, or for damage of any nature whatsoever caused by the turning off or turning on, either wholly or partially, of the water supply for the extension, alteration, or repair of any water main or premises supply, or for the discontinuance of the premises' water supply for the violation of any rules or regulations of the Village Water Utility. No claims will be allowed against the Village on account of the interruption of the water supply caused by the breaking of pipes or machinery, or by stoppage for repairs, or on account of fire or other emergency, and no claims shall be allowed for any damage caused by the breakage of any pipe or machinery.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-35. Extensions of mains.**

§ 152-35. Extensions of mains.

- A. Granting. The Utility mains will be extended on request of prospective property owner consumers when in the opinion of the Village Board it is economically feasible to so do on the basis of either special assessments or cost advancement as determined by the Board.
- B. Special assessment financing. Where such extensions are authorized or made to be paid for in whole or in part by the proceeds of special assessments, all applicable laws and procedures prescribed by Wisconsin Statutes shall be applicable and available.
- C. Cost advancement financing. Where such extensions are authorized or made to be paid from the proceeds of cost advancement the procedure shall be as follows:
 - (1) Upon authorizing the construction of an extension pursuant to a petition, the Village Board shall determine the total estimated cost of such extension. The amount of such estimate shall be paid in cash by the petitioner or petitioners to the Village Administrator to be used for the purpose of paying for the complete cost of such extension as ultimately determined by the Board after completion. If the deposit exceeds the cost of the extension, then the surplus of the deposit shall be returned on a pro rata equitable basis to the person or persons having advanced it. No contract shall be signed

and no work shall be done for the construction of such extension until or unless such deposit is paid to the Village Administrator. If and when such an extension is further extended upon subsequent petition, the cash deposit required shall be based upon the estimated total cost of the authorized extension plus the actual cost of previously authorized extensions of the same main which have been constructed by the most advanced method. Upon completion of such subsequent extension and the payment of the cost thereof, any surplus of that portion of the deposit which was made on estimate of the subsequent extension cost over actual cost shall be refunded pro rata and equitably to the person or persons making the advancement, and the balance of the deposit, which will be in an amount equal to the actual cost of the previously paid and constructed extension, shall be distributed and paid by the Village Administrator by way of recoupment to the then owners of the property abutting on said extension in the following manner:

- (a) Any person having paid an advance deposit for construction of the extension to serve property owned by him shall be entitled to receive as such distributive recoupment his pro rata share of the fund surplus to apply on the repayment of his advance loss, minus, however, a sum equal to that proportion of the fund which is represented by the proportion which the frontage of the same land then owned by such person bears to the total frontage on the extension as last completed, using both sides of the street in computing total frontage.
- (2) The fee for connecting to such extension any premises abutting thereon, the owners of which have not made deposits as herein provided, shall be such sum as is represented by that part of the total estimated, or actual cost as completed, cost of the maximum extension of said main which the frontage of such premises bears to the total frontage of the maximum extension.
- (3) This procedure is designed to provide funds from interested property owners and prospective consumers for the cost of extensions and at the same time provide a method by which all property abutting the extension will have paid its pro rata share of the cost thereof when the extension is completed to its maximum length and when all of the property abutting thereon has been connected to the main. There shall be no interest costs, fees or charges included other than as herein provided.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-36. Permits for connection.**

§ 152-36. Permits for connection.

No person shall dig into or open a street, alley or other public ground for the purpose of connecting with

the Water Utility system of the Village without applying for and receiving a written permit from the Village Administrator nor cover pipe laid for such service connections or connection joints made without the inspection and approval of the inspector. A permit shall be issued upon application if the fee is paid and if the premises have been assessed and are not in default in their payments. If the premises to be connected have not been assessed, then the permit shall be issued only upon payment of the advance stipulated as provided by § 152-35 of this article. Approval shall be given if the work conforms to the requirements of this article.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-37. Fees.

§ 152-37. Fees.

- A. With relation to assessed property. The permit for opening the street, if necessary, and connecting with the Village Water Utility for premises which have been assessed and which are not in default in their payments shall be as provided on the Village Fee Schedule to cover the cost of administration and inspection. A permit shall not be issued to premises which have been assessed and are in default until the default is paid.
- B. Fees for premises not assessed. The fees for premises not previously assessed shall be as provided in § 152-35 of this article.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-38. Backfilling trenches. EN

§ 152-38. Backfilling trenches. EN(109)

All excavations made in the streets, alleys or other public grounds shall be refilled to restore the surface to substantially the same condition it was in prior to excavation and with the same type of surface material, and such backfill shall be settled with water to minimize settling. All such excavation and backfilling shall be done in such manner that there is no ultimate damage to any streets, alleys or public grounds. Failure to refill or restore the surface will result in penalties pursuant to Chapter 1, § 1-4 of this Code.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-39. Indemnification; barriers and protective devices.

§ 152-39. Indemnification; barriers and protective devices.

Any person applying for and receiving a permit and excavating under that permit shall thereby be deemed to have stipulated as part of his permit that he will save the Village harmless from any claim for injury or damage or expense to persons or property or otherwise arising out of such excavation or connection and the use thereof or backfilling of the excavation and shall at all times when any excavation is open or when as a result thereof there is any obstruction to travel or any condition dangerous to person or property of others maintain adequate barriers, lights or other warning and protective devices as the circumstances may require.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-40. Connections by plumbers.**

§ 152-40. Connections by plumbers.

Service lines and laterals may be laid by any plumber whether or not he has a master plumber's license. Such plumber need not file a bond for faithful work but he shall comply with the provisions of state law and the ordinances, rules and regulations of the Village of Merrimac and of the Public Service Commission and State Board of Health of Wisconsin and shall be liable under the indemnity provisions of § 152-39 of this article and shall be responsible and liable to the Village for any damage he may do intentionally or otherwise to the Utility system caused by him or his employees.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-41. Service applications.**

§ 152-41. Service applications.

- A. Application for the original installation of a supply from the Village water main, or for any extension or alteration of any existing supply from the curblin, or within the street property line, shall be filed by the owner of the property or an authorized agent therefor for the approval of the Village Administrator prior to the performance of any such work. If a plumber, or the owner, makes such application, he shall provide fully and truly the legal description of the property, the street location, the officially designated building number, the size and character of the supply pipe, and the fixtures or appliances to be supplied.
- B. The Village Administrator is hereby empowered to withhold approval of any applications wherein full information of the purpose of such supply is not clearly and fully set forth by the applicant.

- C. The signing of the application card or permit will constitute a contract for water supplied and its specific use, which contract embodies these regulations as part of the same.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-42. Service connections.**

§ 152-42. Service connections.

- A. Each applicant for water service shall, at the time of making application for such service, execute and deliver to the Utility a contract for such water service, agreeing to put in the service pipe from the curblin to each piece of water-using property existing at that point and owned by him where such water is desired, at the expense of such applicant, and to commence the payment for such water service when a bill is rendered for the same.
- B. No service pipe shall be installed to any lot or parcel of land not now being served unless said lot or parcel of land has a frontage on a regularly platted street or public strip in which a cast-iron or other long-life water main has been laid and unless the water service connection therewith is made between the property lines, extended to the mains.
- C. The service pipe shall be laid not less than six feet below the surface of an established or proposed grade line. When laid in a combined sewer and water trench the service shall be laid on a shelf of solid ground not nearer than 12 inches to the side wall of the sewer trench.
- D. No division of the water service of any lot or land shall be made for the extension and independent meterage of the supply to an adjoining lot or parcel of land. No division of a water supply service shall be made at the curb for separate supplies therefrom for two or more separate premises having frontage on any street or public service strip whether owned by the same or different parties.
- E. No water service shall be laid through any trench having cinders, rubbish, rock or gravel fill, or any other material which may cause injury to or disintegration of the service pipe, unless adequate means of protection are provided by sand filling or such insulation as may be approved by the Village Administrator. Service pipes passing through curb or retaining walls shall be adequately safeguarded by the provision of a channel space or pipe casing not less than twice the diameter of the service pipe. The space between the service pipe and the channel or pipe casing shall be filled and lightly caulked with oakum, mastic cement, or other resilient material and made impervious to moisture.
- F. When a change of direction of a cast-iron service is made on either side of a curb or retaining wall, the cast-iron fittings shall be securely braced to prevent the loosening or blowing out of the lead in the caulked joints. The bracing shall be made by concrete backing, or by clamp

rods extending from the fitting bell to the next bell or fitting, or by clamp rods securely anchored in the wall.

- G. Such clamp rods shall be not less than five-eighths-inch diameter and when buried in soil should be protected against corrosion by painting with tar asphaltum or other suitable means. Set screws for fastening clamp rods to pipe will not be permitted.
- H. In backfilling the pipe trench, the service pipe must be protected against injury by carefully hand tamping the ground filling, free from hard lumps, rocks, stones, or other injurious material, around and at least six inches over the pipe.
- I. All water supplies shall be of undiminished size from the street main to and including the outlet valve of the water meter.
- J. In case it is necessary to install a separate new or larger service to replace an existing small-diameter service pipe an allowance equal to 50% of the present cost of the installation of the size of service replaced will be made, provided that the new service is installed in the same ditch as the existing service. In no case, however, will this allowance be less than \$10 and it can only be made if the old service can be removed when the new service is installed.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-43. Meters. EN**

§ 152-43. Meters. EN(110)

Meters will be furnished and placed by the Utility and are not to be disconnected or interfered with by the consumer. All meters shall be so located that they shall be preserved from obstructions and allow easy access thereto for reading and inspection, such location to be designated by the Village Administrator. All piping within the building must be supplied by the consumer. If additional meters are desired by the consumer he shall pay for all piping and an amount sufficient to cover the cost of maintenance and depreciation; provided, however, that during a development period of five years from the time the service is begun to its consumers, the Village of Merrimac as a Water Utility shall be exempt from furnishing meters at its own expense. It shall be the duty of the owner or occupant of premises desiring metered water service during this period to provide a water meter of the size and type described by the Utility at his expense.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-44. Service piping for meter settings. EN**

§ 152-44. Service piping for meter settings. EN(111)

In installing new service piping, if meters are to be set, the consumer shall, at his own expense, provide the proper connections for the meter. Where it is possible to set meters in a basement, a short nipple shall be inserted after the stop and waste cock, then a union and then another nipple and coupling of the proper length. The nipple attached to the union and coupling shall be cut to a standard length provided by the plans of the Village Administrator (he may require a horizontal run of 16 inches in such pipeline) which may later be removed for the insertion of the meter into the supply line.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-45. Turning on water.**

§ 152-45. Turning on water.

The water cannot be turned on for a consumer except by a duly authorized employee of the Utility. When a plumber has completed a job he must leave the water turned off. This does not prevent him from testing his work.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-46. Protective devices.**

§ 152-46. Protective devices.

- A. In general. The owner or occupant of every premises receiving water supply shall apply and maintain suitable means of protection of the premises' supply, and all appliances thereof, against damage arising in any manner from the use of the water supply, variation of water pressure, or any interruption of water supply. Particularly must such owner or occupant protect water-cooled compressors for refrigeration systems by means of high-pressure safety cutout devices. There shall likewise be provided means for the prevention of the transmission of water ram or noise of operations of any valve or appliance through the piping of their own or adjacent premises.
- B. Relief valve. On all closed systems (i.e., systems have a check valve, pressure regulator, or reducing valve, water filter or softener) an effective temperature relief valve shall be installed either in the top tapping or the upper-side tapping of the hot-water tank, or on the hot-water distributing pipe connection at the tank. A one-half-inch drainpipe shall be connected to the relief valve for discharge on the floor or into a sink or open drain. No stop valve shall be placed between the hot-water tank and the relief valve or on the drainpipe.

- C. Air chambers. An air chamber or approved shock absorber shall be installed at the terminus of each riser, fixture branch or hydraulic elevator main for the prevention of undue water hammer; the air chamber shall have a diameter not less than that of the pipe it serves and a length not less than 15 diameters of said supply pipe. Where possible, the air chamber should be provided with a valve and drain cock at its base for water drainage and replenishment of air. EN(112)

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-47. Repairs to service.**

§ 152-47. Repairs to service.

- A. The service pipe from the main to the curb will be maintained and kept in repair at the expense of the Utility. The consumer shall maintain the service pipe from the curb to the point of use and can be billed for any water which has not passed through the meter and has been wasted by leakage of defective pipes and fixtures.
- B. If a consumer fails to repair a leaky or broken service pipe from curb to point of metering or use within such time as may appear reasonable to the Village Administrator after notification has been served on the consumer by the Administrator, the water will be shut off and will not be turned on again until the repairs have been completed.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-48. Repairs to mains.**

§ 152-48. Repairs to mains.

The Utility reserves the right to shut off the water in the mains temporarily, to make repairs, alterations or additions to the plant or system. When the circumstances will permit notice of sufficient delay, the Utility will give notification, by newspaper publication or otherwise, of the discontinuance of the supply. No rebate or damages will be allowed to consumers for such temporary suspension of supply.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-49. Thawing frozen services.**

§ 152-49. Thawing frozen services.

- A. Frozen services shall be thawed out by and at the expense of the Utility except where the freezing was caused by contributory fault or negligence on the part of the consumer, such as reduction of the grade or undue exposure of the piping in the building or on the consumer's property or failure to comply with Water Utility specifications and requirements as to depth of service, lack of sufficient backfill, etc.
- B. Following the freezing of a service the Utility shall take such steps and issue such instructions as may be necessary to prevent the refreezing of the same service. No charge will be made for rethawing if the instructions are followed. In case it is necessary to allow the water to flow to prevent refreezing, the consumer must make provision for proper disposal of the wastewater.
- C. For the period in which the water is allowed to run the consumer will be billed according to his meter readings but in no event to exceed the average amount paid in the corresponding billing periods of the previous two years. A new consumer will be charged the average bill for other consumers of the same class receiving service under comparable conditions.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-50. Repairs to meters.

§ 152-50. Repairs to meters.

- A. Meters will be repaired by the Water Utility and the cost of such repairs caused by ordinary wear and tear will be borne by the Utility.
- B. Repair of any damage to a meter resulting from the carelessness of the owner of the premises, his agent or tenant, or from the negligence of any one of them to properly secure and protect the same, including any damage that may result from allowing a water meter to become frozen or to be injured from the presence of hot water or steam in the meter, shall be paid for by the consumer or the owner of the premises.
- C. Pursuant to § PCS 185.37(2)(f), Wis. Adm. Code, refusal or failure to permit authorized Utility personnel access to the meter is cause for disconnection of the water service.^{EN(113)}

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III, Rates, Rules and Practices / § 152-51. Stop boxes.

§ 152-51. Stop boxes.

All stop boxes shall be constructed so that they are flush with or do not extend above the traveled surface of the area where they are installed. The consumer shall protect the stop boxes in his boulevard or other area and shall keep the same free from dirt or other obstructions. The Utility or the Village shall not be liable for failure to locate the stop box or for failure to shut off water in case of a leak in the consumer's premises.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-52. Rates, rules and practices.**

§ 152-52. Rates, rules and practices.

The rates, rules and practices hereby established and prescribed relating to the Utility are hereby declared and determined to be just, reasonable, equitable and necessary. The rates are uniform for like classified service as presently classified and conform to applicable orders of the Wisconsin Public Service Commission. These rates, rules and practices, however are not determined to be the highest or the lowest which would be just, equitable, reasonable or necessary and may be changed by subsequent ordinance of the Village Board based upon experience in operating the Utility and as required by applicable order of the Public Service Commission of Wisconsin.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART II GENERAL LEGISLATION / Chapter 152, WATER UTILITY / ARTICLE III,
Rates, Rules and Practices / § 152-53. Violations and penalties.**

§ 152-53. Violations and penalties.

Any person who violates any of the provisions of this article shall forfeit and pay to the Village of Merrimac a penalty as provided in Chapter 1, § 1-4 of this Code. Each day an offense continues or a violation occurs shall be considered as a separate offense. Continuing violations may be enjoined by the court in a civil action brought by the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION**

**PART III
LAND USE LEGISLATION**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION**

Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION

[HISTORY: Adopted by the Village Board of the Village of Merrimac as §§ 8.03 to 8.05 and 8.07 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

- Mobile homes and mobile home parks-- See Ch. 91.
- Sewer Utility -- See Ch. 116.
- Water Utility -- See Ch. 152.
- Numbering of buildings -- See Ch. 165.
- Planned unit development -- See Ch. 170.
- Subdivision of land -- See Ch. 176.
- Wireless communications facilities -- See Ch. 181.
- Zoning -- See Ch. 185.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code**

ARTICLE I, One- and Two-Family Dwelling Code

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-1.
Title.**

§ 161-1. Title.

This article shall be known as the "One- and Two-Family Dwelling Code of the Village of Merrimac."

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-2.
Purpose and intent.**

§ 161-2. Purpose and intent.

The purpose and intent of this article is to:

- A. Exercise jurisdiction over the construction and inspection of new one- and two-family dwellings and additions to existing one- and two-family dwellings;
- B. Provide plan review and on-site inspections of one- and two-family dwellings by inspectors certified by the Department of Commerce;
- C. Establish and collect fees to defray administration and enforcement costs;
- D. Establish remedies and penalties for violations; and
- E. Establish use of the Wisconsin uniform building permit as prescribed by the Department of Commerce.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-3.
State Uniform Dwelling Code adopted.**

§ 161-3. State Uniform Dwelling Code adopted.

The Administrative Code provisions describing and defining regulations with respect to one- and two-family dwellings in Chapters Comm 20 to 25 of the Wisconsin Administrative Code, whose effective dates are generally June 1, 1980, are hereby adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this article. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this article to secure uniform statewide regulation of one- and two-family dwellings in this Village of the State of Wisconsin. A copy of these Administrative Code provisions and any future amendments shall be kept on file in the Village Administrator's office.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND**

**FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-4.
Definitions.**

§ 161-4. Definitions.

As used in this article, the following terms shall have the meaning indicated:

ADDITION -- New construction performed on a dwelling which increases the outside dimensions of the dwelling.

ALTERATION -- A substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

DEPARTMENT -- The Department of Commerce.

MINOR REPAIR -- Repair performed for maintenance or replacement purposes on any existing one- or two-family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection, or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed minor repair. Permits are required for structural, electrical and plumbing repair.^{EN(114)}

ONE- OR TWO-FAMILY DWELLING ^{EN(115)}

- A. Any building, the initial construction of which is commenced on or after the effective date of this article, which contains one or two dwelling units; or
- B. An existing structure, or that part of an existing structure, which is used or intended to be used as a one- or two-family dwelling.

PERSON -- An individual, partnership, firm or corporation.

UNIFORM DWELLING CODE -- Those Administrative Code provisions and any future amendments, revisions or modifications thereto contained in the following chapters of the Wisconsin Administrative Code:

Comm 20	Administration and Enforcement
Comm 21	Construction Standards
Comm 22	Energy Conservation
Comm 23	Heating, Ventilating and Air Conditioning
Comm 24	Electrical Standards
Comm 25	Plumbing

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-5.
Administration and enforcement.**

§ 161-5. Administration and enforcement.

For the purpose of administering and enforcing the provisions of this article and the Uniform Dwelling Code, the Village shall establish the office of Building Inspector which shall be filled by that method prescribed under § 161-6.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-6.
Building Inspector.**

§ 161-6. Building Inspector.

- A. Creation and appointment. There is hereby created the office of Building Inspector. The Building Inspector shall be appointed by the Village President subject to confirmation by the Village Board. The Building Inspector shall be certified for inspection purposes by the Department of Commerce in each of the categories specified under the Wisconsin Administrative Code.^{EN(116)}
- B. Subordinates. The Building Inspector may appoint, as necessary, certified subordinates.^{EN(117)}
- C. Duties. The Building Inspector shall administer and enforce all provisions of this article and the Uniform Dwelling Code.
- D. Powers. The Building Inspector or an authorized certified agent may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the Building Inspector or his/her agent while in the performance of his/her duties.
- E. Records. The Building Inspector shall perform all administrative tasks required by the Department under the Uniform Dwelling Code. In addition, the Inspector shall keep a record of all applications for building permits in a book for such purpose and shall regularly number each permit in the order of its issue. The Building Inspector shall make a written annual report to the Village Board relative to these matters.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-7.
Residential building permits.**

§ 161-7. Residential building permits.

- A. Building permit required. No one- or two-family dwelling for which initial construction shall be commenced after June 20, 1980, shall be built unless a building permit for that work shall first be obtained by the owner, or his agent, from the Building Inspector. Application for a building permit shall be made in writing upon that form designated as the "Wisconsin uniform dwelling permit application" furnished by the Department of Commerce.
- B. Repairs and additions requiring permit. No addition, alteration or repair to an existing one- or two-family dwelling not deemed minor repair by the Building Inspector shall be undertaken unless a building permit for this work shall first be obtained by the owner, or his agent, from the Inspector.
- C. Submission of plans. The applicant shall submit two sets of plans for all new repairs or additions to existing one- and two-family dwellings at the time that the building permit application is filed.
- D. Issuance of permit. If the Building Inspector finds that the proposed building or repair or addition complies with all Village ordinances and the Uniform Dwelling Code, the Inspector shall officially approve the application and a building permit shall be subsequently issued to the applicant. The issued building permit shall be posted in a conspicuous place at the building site. A copy of any issued building permit shall be kept on file with the Building Inspector.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-8.
Fees.**

§ 161-8. Fees.

Fees for building permits and inspections shall be as provided on the Village Fee Schedule.^{EN(118)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-9.**

Violations and penalties; stop-work orders.

§ 161-9. Violations and penalties; stop-work orders.

- A. No person shall erect, use, occupy or maintain any one- or two-family dwelling in violation of any provision of this article or the Uniform Dwelling Code or cause to permit any such violation to be committed. Any person violating any of the provisions of this article shall, upon conviction, be subject to a forfeiture as provided in Chapter 1, § 1-4 of this Code, together with the costs of prosecution and, if in default of payment thereof, shall be imprisoned for a period of not less than one day nor more than six months or until such forfeiture and costs are paid.
- B. If an inspection reveals a noncompliance with this article or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the owner, in writing, of the violation(s) to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted pursuant to § Comm 20.10 of Wisconsin Administrative Code.
- C. If, after written notification, the violation is not corrected within 30 days, a stop-work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop-work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.
- D. Each day each violation continues after the thirty-day written notice period has run shall constitute a separate offense. Nothing in this article shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this article or the Uniform Dwelling Code.
- E. If any construction or work governed by the provisions of this article or the Uniform Dwelling Code is commenced prior to the issuance of a permit, double fees shall be charged.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-10.
Appeals.**

§ 161-10. Appeals.

Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-11.
Liability for damages.**

§ 161-11. Liability for damages.

This article shall not be construed as an assumption of liability by the Village for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE I, One- and Two-Family Dwelling Code / § 161-12.
Severability.**

§ 161-12. Severability.

If any section, clause, provision or portion of this article or of Chapters Comm 20, 21, 22, 23, 24 and 25 of the Wisconsin Administrative Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE II, Commercial Building Code**

ARTICLE II, Commercial Building Code

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-13. Building
permit required.**

§ 161-13. Building permit required.

No building or any part thereof shall hereafter be erected within the Village of Merrimac or ground broken for the same, except as hereinafter provided, until a permit therefor shall first have been obtained from the Building Inspector by the owner or his authorized agent. The term "building" as used in this article shall include any building or structure and any enlargement, alteration, heating or ventilating installation, moving or demolishing, or anything affecting the fire hazards or safety of any building or structure.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-14. Permit
application.**

§ 161-14. Permit application.

Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the land, and also of the owner of the building if different, and the legal description of the land upon which the building is to be located and shall contain such other information as the Building Inspector may require for effective enforcement of this article.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-15. Plans
and specifications.**

§ 161-15. Plans and specifications.

With such application there shall be submitted two complete sets of plans and specifications, including a plot plan showing the location of the proposed building with respect to adjoining streets, alleys, lot lines and buildings. Plans for buildings required to comply with the State Building Code shall bear a stamp of approval from the Department of Commerce. Such plans and specifications shall be submitted in duplicate. One set shall be returned after approval as hereinafter provided; the other set shall remain on file in the office of the Administrator. All plans and specifications shall be signed by the designer.

- A. Waiver of plans. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving provided that the cost of such work does not exceed \$2,000.
- B. Approval of plans. If the Building Inspector determines that the proposed building will comply with all ordinances of the Village and all applicable laws and orders of the State of Wisconsin, he shall officially approve the plans. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned ordinances, laws and orders, or which involves the safety of the building or occupants, except with the written consent of the Building Inspector.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-16. Waiting**

period; display of permit.

§ 161-16. Waiting period; display of permit.

A period of 10 days following the date of application shall elapse before a building permit is issued. Upon issuance of said permit, the same shall be kept and displayed at the site of the proposed building. If the Building Inspector finds that sufficient time exists for making preliminary investigations and that no controversy appears to be forthcoming on the matter of building regulations, he may, at his discretion waive said waiting period.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-17. Fees.

§ 161-17. Fees.

Fees for building permits shall be as provided on the Village Fee Schedule.^{EN(119)}

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-18. Inspections. EN

§ 161-18. Inspections. ^{EN(120)}

The builder shall notify the Building Inspector when ready, and the Building Inspector shall inspect all buildings upon completion of the foundation forms, or before the foundation is laid, for proper setback and again when ready for drywall or plaster, or before paneling is applied. After completion he shall make a final inspection of all new buildings and alterations.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-19. Protection of public property.

§ 161-19. Protection of public property.

Prior to the issuing of the permit the Building Inspector shall view the existing sidewalk, curb and gutter, and street pavement, noting the condition of the same in the space provided therefor on the permit application. Upon completion of the proposed project a reinspection shall be made of said public facilities and all changes, if any, shall be chargeable to the permittee.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE II, Commercial Building Code / § 161-20. State
code adopted.**

§ 161-20. State code adopted.

Chapters Comm 61 through Comm 65 of the Wisconsin Administrative Code (Wisconsin Commercial Building Code) are hereby adopted and made a part of this article with respect to those classes of buildings to which this code specifically applies.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE III, Fire Prevention**

ARTICLE III, Fire Prevention

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE III, Fire Prevention / § 161-21. Flammable liquids.**

§ 161-21. Flammable liquids.

Chapter Comm 10 of the Wisconsin Administrative Code (Flammable and Combustible Liquids), issued by the Department of Commerce of Wisconsin, is hereby adopted by reference as a part of this article, and it shall be the duty of the Building Inspector to enforce the provisions thereof.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND
FIRE PREVENTION / ARTICLE III, Fire Prevention / § 161-22. Fire district
regulations.**

§ 161-22. Fire district regulations.

- A. Fire district. The fire district limits in the Village of Merrimac shall be that area within the district limits as shown on an official map, titled and marked "Official Map of the Fire District Limits of the Village of Merrimac." Said map, the original copy of which is filed in the office of the Administrator, is hereby adopted as the official map of the fire district of the Village of Merrimac.

- B. Definitions. The terms "fire-resistive construction," "mill construction," "ordinary construction," "frame construction" and "fire-retardant roof coverings" shall have the meaning as defined in Chapter Comm 14 of the Wisconsin Administrative Code.
- C. Regulations within fire districts.
- (1) Requirements. Every building hereafter erected, enlarged or moved within or into the fire district shall be of fire-resistive, mill or ordinary construction, except as otherwise provided by this section. Enclosing walls, division walls and party walls shall be of four-hour, fire-resistive walls of a construction as provided in Chapter Comm 14 of the Wisconsin Administrative Code, which is hereby by reference made a part of this section with respect to all buildings and structures within the fire district.
 - (2) Exceptions. No building of frame construction shall be constructed within or moved within or into the fire district except the following:
 - (a) Buildings occupied as a private garage, not more than one story in height nor more than 750 square feet in area, located on the same lot with a dwelling, provided that any such building shall be placed at least three feet from the lot lines of adjoining property.
 - (b) Buildings of frame construction, except when used for a high-hazard occupancy, not exceeding 2,500 square feet in area when used for a business occupancy or 1,000 square feet in area when used for other occupancies, nor more than one story in height, and having a horizontal separation of less than 10 feet shall have a fire-resistance rating of not less than one hour.
 - (c) Greenhouses not more than 15 feet in height.
 - (d) Sheds open on the long side, not more than 15 feet in height nor more than 500 square feet in area, located at least five feet from buildings and from adjoining lot lines.
 - (e) Builders' shanties for use only in connection with a duly authorized building operation.
- D. Bulk oil tanks. The storage of Class I and Class II flammable liquids, as defined in § Comm 10.01 of the Wisconsin Administrative Code, in aboveground tanks outside of buildings is regulated by the Department of Commerce and Department of Natural Resources.^{EN(121)}
- E. Razing old or damaged buildings. Any existing building of frame construction within the fire limits which may hereafter be damaged by fire, or which has deteriorated to an amount greater than 1/2 of its value, exclusive of the foundation, as determined by the Village Assessor, shall not be repaired or rebuilt but shall be ordered removed by the Building Inspector under the provisions of § 66.0413, Wis. Stats.

F. Fire-retardant roofing.

- (1) Every roof hereafter constructed within the fire district, including buildings listed in Subsection C(2), shall be covered with a roofing having a fire-resistive rating equivalent to Class "B" or better of the Underwriters' Laboratories, Inc., classification on its List of Inspected Materials, which is hereby adopted by reference and incorporated in this section as if fully set forth herein.
- (2) No roofing on an existing roof shall be renewed or repaired except in conformity with the requirements of Subsection F(1) of this section.^{EN(122)}

G. The Building Inspector (or Fire Chief or other designated person) is hereby authorized and it shall be his duty to enforce the provisions of this section.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION / ARTICLE III, Fire Prevention / § 161-23. Outdoor heating devices. EN

§ 161-23. Outdoor heating devices. ^{EN(123)}

A. As used in this section, the following terms shall have the meaning indicated:

SOLID-FUEL-FIRED OUTDOOR HEATING DEVICE -- A device designed to generate heat, hot water or both for the interior of a building by solid fuel combustion where the enclosure in which the combustion takes place is located outside of the building for which the heat or hot water, or both, is to be generated. This definition includes but is not limited to outdoor wood-burning heating units.

B. The construction or use of solid-fuel-fired outdoor heating devices is prohibited in the Village of Merrimac.

C. This section shall also apply to any preexisting nonconforming use following a period of 12 months of nonuse of such device.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION / ARTICLE IV, Enforcement

ARTICLE IV, Enforcement

PART III LAND USE LEGISLATION / Chapter 161, BUILDING CONSTRUCTION AND FIRE PREVENTION / ARTICLE IV, Enforcement / § 161-24. Violations and penalties.

§ 161-24. Violations and penalties.

In addition to the revocation provisions herein, the penalty for violating any provision of this chapter shall be as provided in Chapter 1, § 1-4 of this Code. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 165, BUILDINGS, NUMBERING OF

Chapter 165, BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Village Board of the Village of Merrimac as § 8.06 of the Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 161.

Subdivision of land -- See Ch. 176.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 165, BUILDINGS, NUMBERING OF / § 165-1. Plan established.

§ 165-1. Plan established.

All lots, buildings and structures in the Village of Merrimac shall be numbered in accordance with the following plan: north and south numbers shall commence at Main Street; east and west numbers shall commence at School Street; odd numbers shall be on the east and north sides of the streets; even numbers shall be on the south and west sides of streets; each lot in each block shall be assigned a number.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 165, BUILDINGS, NUMBERING OF / § 165-2. Chart.

§ 165-2. Chart.

The Village Administrator shall keep a chart showing the proper street number of every lot in the Village which shall be open to inspection by anyone interested.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 165, BUILDINGS, NUMBERING OF / §
165-3. Placement of numbers. EN**

§ 165-3. Placement of numbers. EN(124)

It shall be the duty of the owners and occupants of every house in the Village to have placed thereon, in a place visible from the street, figures at least 2 1/2 inches high showing the number of the house.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT**

Chapter 170, PLANNED UNIT DEVELOPMENT

[HISTORY: Adopted by the Village Board of the Village of Merrimac at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 161.

Subdivision of land -- See Ch. 176.

Zoning -- See Ch. 185.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-1. Purpose and objectives.**

§ 170-1. Purpose and objectives.

The purpose of this chapter is to encourage improved design in the development of land by providing relief from rigid zoning requirements which are designed for conventional developments but which may preclude desirable but unconventional development and to establish standards to promote the following objectives:

- A. Diversification in the uses permitted and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived as unified projects.
- B. Environmental design in the development of land that is of a higher quality than would otherwise be possible through the strict application of general zoning requirements.
- C. Promotion of the functional and beneficial use of common open space.

- D. Preservation of archaeological and historic resources and natural landscape features and amenities of a development site and utilization of such features in a harmonious fashion.
- E. Creation of a variety of uses in compatible arrangements which provide a greater choice of living, employment and shopping environments.
- F. Efficient use of land resulting in more cost-effective networks of utilities, streets and other facilities.
- G. Coordination of architectural styles, building forms and relationships, graphics and other private improvements.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-2. Minimum area.**

§ 170-2. Minimum area.

A planned unit development (PUD) shall not be less than three acres of contiguous land under a single form of ownership. This section shall not be interpreted to prohibit the post-development sale of all or part of an approved PUD subject to the provisions of this chapter and all applicable statutes and subdivision regulations.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-3. Permitted uses.**

§ 170-3. Permitted uses.

The uses which may be permitted under a planned unit development include a mixture of uses, including any uses permitted under Chapter 185, Zoning, of the Village Code. Permitted uses may also include any conditional uses authorized in any of the districts under Chapter 185, Zoning, and compatible uses as determined by the Village Board by approval of the final development plan. No use is permitted as a matter of right in the PUD District except as may be provided in an approved final development plan.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-4. Procedures for approval.**

§ 170-4. Procedures for approval.

- A. Preapplication conference. Prior to preparation of a formal application, the applicant may

choose to meet with the Plan Commission to obtain information and guidance relating to the preparation of an application.

- B. Application. The applicant shall submit to the Village Administrator a planned unit development application form, 12 copies of a preliminary development plan prepared in accordance with Subsection C and an application fee as established by the Village Board.
- C. Preliminary development plan. The preliminary development plan shall contain the following:
 - (1) The name and address of all owners of the site proposed for development as well as the name and address of all site planners, architects, engineers, surveyors or other consultants;
 - (2) A legal description of the site covered by the plan;
 - (3) A general area plan drawing reflecting the intended land uses and the location and dimensions of all proposed structures, and all future proposed street locations within the site when the proposed planned unit development is intended to be developed in more than one phase;
 - (4) The location of all property lines, existing streets, easements, utilities and any other significant physical features;
 - (5) Date, North arrow and graphic scale (not less than one inch equals 100 feet) of all drawings submitted;
 - (6) The present zoning district designation(s) of the property;
 - (7) An indication of the existing conditions on the tract including contour lines at two-foot intervals, watercourses and existing drainage facilities, wooded areas and isolated trees of six inches or more in diameter, existing streets, sidewalks or other improvements, and existing buildings and structures with an indication of those which will be removed and those which will retained as part of the development;
 - (8) A description of the area surrounding the site showing land use, streets, peculiar physical or natural features, public facilities and existing zoning;
 - (9) Quantitative data indicating the following:
 - (a) Minimum and maximum number of dwelling units;
 - (b) Approximate gross and net residential densities, excluding all streets and roadways;
 - (c) Total amount of usable open space area provided in the tract; and

- (d) Such other calculations as the Commission may require;
 - (10) A development schedule indicating:
 - (a) The approximate date when construction of the project will begin;
 - (b) The stages in which the project will be built and the approximate date when construction of each stage will begin;
 - (c) The approximate dates when the development of each stage will be completed;
 - (d) The area and location of common open space that will be provided at each stage; and
 - (e) A schedule of deadlines for submission of final development plans for each phase of the proposed development if final development plans encompassing the entire development will not be filed within one year from the date of approval of the preliminary development plan;
 - (11) An explanation of the methods proposed by the applicant to provide for the maintenance and regulation of common areas and open spaces, including copies of any proposed deed restrictions, building covenants and organizational documents of any property owners' association or similar agreements; and
 - (12) Such other documents explaining other circumstances as the Plan Commission may require.
- D. Preliminary PUD hearing. Upon receipt of a complete application, the Village Administrator shall schedule the matter for public hearing before the Plan Commission. Notice of the hearing shall be given by publication of a Class 2 notice as provided in Ch. 985, Wis. Stats. The hearing may, at the request of the applicant, be continued as necessary for the submission of additional information or the revision of the application documents.
- E. Plan Commission. Within a reasonable time, the Plan Commission shall make finding with regard to the standards set forth in § 170-6 and forward a report to the Village Board with a recommendation to approve, approve with conditions or reject the preliminary plan.
- F. Board action on preliminary plan. Approval of the preliminary plan by the Village Board shall constitute approval of the general arrangement of the plan and the provisions submitted by the applicant and a waiver of those provisions of Chapter 185, Zoning, which are set forth in the plan. Such approval shall become void as to any lands for which a final development plan application is not submitted by the latest of:
- (1) One year from the date of approval of the preliminary development plan.
 - (2) The date set forth in the approved preliminary development plan pursuant to Subsection

C(10)(e).

- (3) Any date established by the Village Board by resolution extending the period provided in Subsection F(1) or (2).

G. Final application submission. Twelve copies of the final development plan shall be filed with Village Administrator. Such submission shall be accompanied by a fee in accordance with the Fee Schedule set by the Village Board and an escrow amount, set by the Village Board, to cover Village engineering and attorney legal fees. The final development plan shall include the following:

- (1) Any amendments required as part of the preliminary review process.
- (2) A site plan of the proposed development indicating the general location of the following:
 - (a) All buildings, structures and other improvements including architectural elevation or perspective drawings of all buildings and improvements sufficient to show the developer's intent.
 - (b) Common open space (for developments with residential use) and recreation facilities with a designation of the intended uses.
 - (c) Off-street parking facilities and number of spaces to be provided.
 - (d) Sidewalks.
 - (e) Illuminated areas.
 - (f) Screening or buffering of the development perimeters.
 - (g) All areas and streets which are intended to be dedicated to the public.
 - (h) Landscaping plan.
- (3) Quantitative data indicating the following:
 - (a) Maximum number of dwelling units.
 - (b) Maximum lot coverage of building and structures (percent of total).
 - (c) Maximum impervious surface coverage of all building and structures, driveways, roads, sidewalks, patios and other nonporous surfaces (percent of total).
 - (d) Approximate gross and net residential densities, excluding all streets and roadways.
 - (e) Minimum amount of usable open space area provided in the tract.

- (f) Such other calculations as the Plan Commission may require.
- H. Plan Commission review. The Plan Commission shall review the final development plan for conformity with the approved preliminary development plan and the provisions of this chapter. The Commission shall forward its recommendations and report to the Village Board, along with the final plan and any other necessary supporting information.
- I. Board action on final application. If the development plan complies with the approved preliminary plan except for changes required as a condition of such approval, and subject to approval of such changes, and if the Village Board approves all of the features as shown on the site plan required by Subsection G(2), the Village Board shall adopt an ordinance reclassifying the subject property to the PUD District effective upon completion of the development in accordance with the final development plan and granting the applicant a conditional use permit authorizing the development in accordance with the plan. The Village Administrator shall deliver for recording the approved development plan and all ordinances, dedications, covenants and such other documents as may be required as a condition of approval.
- J. Lapse of permit. The applicant shall conform to the development schedule in the final development plan approved by the Village Board. If no construction has begun or no approved use is established in the planned unit development within five years from the approval of the final development plan or if any improvement is not completed within five years from the date set forth in the preliminary development plan, the development as provided in the development schedule has lapsed. If a final development plan lapses under the provisions of this section, the Village Administrator shall notify the applicant of the lapse of permit and the property owner shall promptly cause the property to be brought into compliance with all of the district regulations in effect prior to the approvals granted pursuant to Subsection I.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-5. Changes to approved plans.**

§ 170-5. Changes to approved plans.

- A. Minor changes from the approved development plan in the location, siting and height of buildings and structures may be authorized by the Village Administrator or may be referred to the Village Board without additional public hearing if required by engineering or other circumstances not foreseen at the time the final plan was approved, provided that the change does not result in any of the following:

- (1) A change in the use or character of the development;
 - (2) An increase by more than 5% in the overall coverage of structures;
 - (3) An increase in the density or intensity of use;
 - (4) A reduction of more than 1% in approved open space; or
 - (5) A reduction of off-street parking and loading spaces.
- B. Any other amendment to the development plan must be approved by the Village Board. Such changes must be recorded as amendments to the planned unit development ordinance in accordance with the same procedure as required for the initial final plan approval.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-6. Standards for approval.**

§ 170-6. Standards for approval.

No planned unit development shall be approved unless the Plan Commission and Village Board shall determine all of the following:

- A. The proposed site will be provided with adequate drainage facilities for surface water and stormwater.
- B. The proposed site is accessible from public roads that are adequate to carry the traffic that will be generated from the proposed development.
- C. The proposed development can be adequately, safely, and efficiently provided with, and will not place an undue burden on, public utility services and facilities.
- D. The streets and driveways on the site of the proposed development will be adequate to serve the residents of the development and will meet the minimum construction standards and specifications of all applicable ordinances of the Village, except to the extent such standards and specifications are modified as part of the approved preliminary or final development plans.
- E. The character or uses of the proposed development will not adversely affect real estate values in, or the character of, the neighborhood adjacent to the proposed development or the development of such areas as permitted by Chapter 185, Zoning.
- F. Adequate provision has been made for the maintenance of any common grounds, parks, open spaces, recreational areas, community buildings, or other common facilities included in the

proposed development.

- G. Adequate safeguards have been provided to prevent the subsequent development of, and construction of, buildings and structures upon any common grounds, parks, open spaces, or recreational areas included in the proposed development.
- H. The proposed development offers a cohesive design that is compatible with the physical nature of the site and surrounding area.
- I. The proposed development will produce an attractive environment of sustained aesthetic desirability, economic stability and functional practicality compatible with the intent of the Village Master Plan or applicable comprehensive plan.
- J. To the extent the plan provides for lot dimensions, setbacks, building heights, landscape treatments or other design features which do not conform to the general district regulations, modifications to those regulations in the context of the overall development plan will not adversely affect the public health, safety or welfare.
- K. The proposed design satisfies all of the requirements of this chapter and all applicable subdivision regulations.
- L. The schedule for development and submission of final development plans as set forth in a preliminary development plan is reasonable considering the scope of the development and its proposed phases, the impact of the schedule on Village planning, and the ability of the Village and other governmental entities to accommodate the needs created by the development as development occurs.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-7. Subdivision review.**

§ 170-7. Subdivision review.

The applicable subdivision review under Chapter 176, Subdivision of Land, of the Village Code shall be carried out as an integral part of the review of a planned unit development. The plans required must be submitted in a form which substantially satisfies requirements of the subdivision regulations for the preliminary and final plat approvals. Subdivision applications may be submitted for the whole, a part or parts of the overall planned unit development as indicated by phases in the final development phasing plan.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-8. Street design standards.**

§ 170-8. Street design standards.

- A. Circulation. All commercial buildings shall have access on internal or frontage roads. The road system must give consideration to properties beyond the planned unit development.
- B. Streets. Streets in a planned unit development may be dedicated to public use or may be retained under private ownership. They shall be constructed in accordance with standards required by local governmental regulations or as otherwise specified in the planned unit development conditional use permit.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 170, PLANNED UNIT DEVELOPMENT
/ § 170-9. Open space requirements.**

§ 170-9. Open space requirements.

- A. Distribution and design.
 - (1) Open space shall be distributed equitably throughout a planned unit development in relationship to the uses which it serves.
 - (2) Open spaces shall be generally linked to provide a continuous network.
 - (3) Buildings and other structures shall be positioned on a site to provide for maximum usable open space.
 - (4) Retention basins and ponds shall have a minimum of 50 feet of usable open space surrounding the perimeter of such ponds and basins.
 - (5) No proposed open space area may be accepted as usable common open space unless its character and quality have been approved by the Village Board. When making its determination the Village Board shall give consideration to the following variables:
 - (a) The topography and existing amenities of the proposed area, including trees, ground cover and other natural features.
 - (b) The manner in which the proposed area is to be improved and maintained for recreational or amenity purposes.
 - (c) The existence of public parks or other public recreational facilities in the vicinity and the relationship thereto.
- B. Open space conveyance and maintenance.

- (1) All land shown on the final development plan as common open space must be conveyed under one of the following options approved by the Village Board:
 - (a) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it.
 - (b) It may be conveyed to trustees provided in a declaration of covenants recorded against the property establishing a property owners' association or similar organization for the maintenance of common open spaces within the planned unit development. The common open space must be conveyed to the trustees subject to the covenants to be approved by the Village Board and Village Attorney, which covenants restrict the common open space to the uses specified on the final development plan and provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
- (2) No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use as provided herein. However, no change of use authorized under amendments of the plan may be considered as a waiver of any of the covenants limiting the use of common open space areas. All rights to enforce these covenants against any use permitted under further amendment of the plan are expressly reserved.
- (3) If the common open space is not conveyed to a public agency, one of the following methods of enforcement must be provided:
 - (a) The legal right to develop the common open space for the uses specified in the final development plan must be conveyed to a public agency;
 - (b) The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space. The fee title to the common open space shall be vested in the Village in the event of a substantial default in the stated conditions; or
 - (c) The covenants governing the use, improvement, and maintenance of the common open space shall authorize the Village Board to enforce their provisions.
- (4) Once a planned unit development plan has been approved, the common grounds, parks, open spaces, and recreational areas included in said plan shall not be used for the construction of any building or structure which has not been approved by the Plan Commission as part of a final development plan, nor shall such common grounds, parks, open spaces, or recreational areas be thereafter computed as a part of the required minimum lot area or required yard of any other building or structure.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS**

Chapter 176, LAND DIVISION AND CONDOMINIUMS

[HISTORY: Adopted by the Village Board of the Village of Merrimac 4-12-2006 by Ord. No. 2006-02.^{EN(125)} Amendments noted where applicable.]

GENERAL REFERENCES

- Plan Commission -- See Ch. 9, § 9-3.**
- Mobile homes and mobile home parks -- See Ch. 91.**
- Sewer utility -- See Ch. 116.**
- Streets and sidewalks -- See Ch. 129.**
- Water utility -- See Ch. 152.**
- Building construction and fire prevention -- See Ch. 161.**
- Planned unit development -- See Ch. 170.**
- Zoning -- See Ch. 185.**

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction**

ARTICLE I, Introduction

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-1. Title.**

§ 176-1. Title.

This chapter shall be known as, referred to, and cited as the "Land Division and Condominium Ordinance."

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-2. Enabling legislation.**

§ 176-2. Enabling legislation.

These regulations are adopted pursuant to Wis. Stats. §§ 61.34, 61.35, 62.23(6), (7) and (7a), 236.10(3), 236.45 and 703.27.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-3. Purpose.**

§ 176-3. Purpose.

The purpose of this chapter is to regulate and control the division of land and creation of condominiums within the corporate limits and the extraterritorial plat approval jurisdiction of the Village of Merrimac; to promote public health, safety and general welfare; to further the orderly layout and use of land; to prevent the overcrowding of land and undue concentrations of population; to lessen congestion of streets and highways; to provide for adequate light and air; to assure that adequate street, water sewerage, schools, parks, playgrounds and other public facilities are available to the public; to provide for proper ingress and egress; to promote proper monumenting of divided land and conveyancing by accurate legal description; to provide for the administration and enforcement of this chapter; and to provide penalties for its violation.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-4. Approval authority.**

§ 176-4. Approval authority.

The authority to review preliminary plats, final plats, certified survey maps, and condominium plats is, to the extent necessary to implement the provisions of this chapter, delegated to the Plan Commission. The power to approve, conditionally approve or reject them shall be exercised by the Village Board after considering the recommendations of the Plan Commission.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-5. Applicability.**

§ 176-5. Applicability.

- A. This chapter applies to all land divisions and condominium plats within the corporate limits and the extraterritorial plat approval jurisdiction of the Village.

- B. This chapter shall not apply to divisions of a lot, parcel, or tract of land creating fewer than five parcels in the following situations:
- (1) Transfers of interests in land by will or pursuant to court order.
 - (2) Leases for a term not to exceed 10 years, mortgages or easements.
 - (3) The sale or exchange of parcels or land between adjoining property owners if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by this chapter, the Comprehensive Plan, or Chapter 185, Zoning.
 - (4) A division of land into parcels, each of which is 10 acres or more, is restricted to use for agricultural purposes, and does not require the construction or installation of any public improvements or the creation of any new streets or easements for access, ingress, or egress.
- C. If a division of land is excepted from the requirements of this chapter under Subsection B, the land divider shall notify the Plan Commission of the land division in writing, and shall provide the Plan Commission with a legal description of each parcel created by the land division together with a copy of the will, court order, lease, restrictive covenants, or other document that exempted it.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-6. Land suitability.**

§ 176-6. Land suitability.

No land shall be divided for residential, commercial, or industrial use which the Village Board, after considering the recommendation of the Plan Commission, determines to be unsuitable for such use because of potential flooding, inadequate drainage, adverse soil or rock formation, excessive slopes, or any other feature that may be detrimental to public health, safety or welfare. When making a determination of unsuitability, the Village Board shall state in writing, either by separate document or in its recorded minutes, the particular facts upon which it based its conclusion that the land is not suitable for the proposed use.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-7. Compliance required.**

§ 176-7. Compliance required.

- A. No person shall improve, build upon, convey, or monument any parcel, lot, or a tract of land

created in violation of this chapter.

- B. No person shall divide or cause to be divided any parcel, lot, or tract of land located within the Village or its extraterritorial plat review jurisdiction, no plat, certified survey map, condominium plat, or replat shall be recorded, and no street shall be laid out upon any parcel of land created by a land division or upon any condominium plat absent compliance with all requirements of this chapter and with the following:
- (1) The provisions of Wis. Stats. Ch. 236, with respect to land divisions.
 - (2) The provisions of Wis. Stats. Ch. 703 with respect to condominium plats.
 - (3) The rules of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, contained in ch. TRANS 233 of the Wisconsin Administrative Code for land divisions, subdivisions or replats that abut a state trunk highway or connecting street.
 - (4) The rules of the Wisconsin Department of Natural Resources governing floodplain management, shoreland-wetlands management, erosion control, and storm water runoff set forth in ch. NR 118 and ch. 116 of the Wisconsin Administrative Code.
 - (5) Applicable comprehensive plans and master plans or components of such plans prepared by local, state, regional, or county agencies.
 - (6) Applicable local and county regulations, including zoning, stormwater management, sanitary, and building codes, and Official Maps.
 - (7) The Village of Merrimac Comprehensive Plan and Master Plan, or plan component, and the Official Map.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE I, Introduction / § 176-8. Permit restriction.**

§ 176-8. Permit restriction.

No building permit, occupancy permit, or other permit authorizing construction, occupancy, or use of any building site created by a land division or of any property subject to a declaration of condominium shall be issued unless and until all applicable provisions of this chapter have been complied with.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE II, Land Divisions by Certified Survey**

ARTICLE II, Land Divisions by Certified Survey

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE II, Land Divisions by Certified Survey / § 176-9. Use of survey map.

§ 176-9. Use of survey map.

A certified survey map which has been approved by the Village Board, and meets all of the requirements of Wis. Stats. § 236.34 and of this chapter, may be utilized to create not more than four parcels or building sites. The Plan Commission may require a preliminary plat to be filed by a land divider who is seeking approval of a certified survey map. When a preliminary plat is not required, the certified survey map shall include the entire parcel owned by the land divider.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE III, Condominiums

ARTICLE III, Condominiums

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE III, Condominiums / § 176-10. Permitted.

§ 176-10. Permitted.

Subject to the provisions of Wis. Stat. Ch. 703 and of this chapter, a condominium plat may be used to create multiple building sites or to subject an existing building not previously subject to a condominium declaration to such a declaration.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE III, Condominiums / § 176-11. Density.

§ 176-11. Density.

Neither the building density nor the residential density within a condominium plat shall exceed that which would be allowed in a land division of the same site.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE III, Condominiums / § 176-12. Compliance with Zoning Regulations.

§ 176-12. Compliance with Zoning Regulations.

Each building or unit within a condominium plat shall conform with the zoning ordinances in effect at the time a building permit for the construction, alteration, expansion or conversion is issued.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures

ARTICLE IV, Approval Procedures

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-13. Preapplication conference.

§ 176-13. Preapplication conference.

Before filing any application for approval of any plat, certified survey, or condominium plat, a land divider or condominium platting may consult with the Plan Commission to discuss the procedure for obtaining the requisite approvals, including site design and submittal requirements, and to learn the purpose and objectives of these regulations, of any applicable Village plans and implementation devices, and to be otherwise assisted in planning and implementing the land division.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-14. Application.

§ 176-14. Application.

A land divider or condominium platter seeking approval of any land division or condominium plat shall submit a written application for approval, together with the requisite documents, fees, and deposits, to the Village Clerk at least 30 days prior to the meeting of the Plan Commission at which action is desired.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-15. Referral.**

§ 176-15. Referral.

Upon receipt of the application and accompanying plat, certified survey map, or condominium plat, the Village Clerk shall forward a copy thereof to the Plan Commission and to the Village Engineer, for their review. Where the Village is to act as the transmitting authority, the requisite number of copies shall be forwarded to each approving agency or authority identified in the application.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-16. Preliminary plat
review.**

§ 176-16. Preliminary plat review.

- A. Before submitting a final plat for approval, the land divider shall file seven copies of a preliminary plat, together with an application for preliminary plat approval, with the Village Clerk. The land divider shall also forward a copy of the preliminary plat to the local electric and telecommunications companies.
- B. If the land divider expects the Village to act as the transmitting authority in accordance with Wis. Stats. § 236.12, the application shall so state, shall include a list of the other authorities to which the plat must be submitted, and shall be accompanied by such additional fees and copies of the plat as are necessary to be transmitted to each such authority.
- C. The preliminary plat shall be prepared in accordance with this chapter and shall cover the entire area owned or controlled by the land divider even though only a small portion thereof is proposed for development at the time. The Plan Commission may waive or modify this requirement where it is unnecessary to fulfill the purpose of this chapter and undue hardship would result from strict application thereof.
- D. After reviewing the preliminary plat, the application, and the recommendations of the Village

Engineer, the Plan Commission shall refer the certified survey together with its written recommendation for approval, conditional approval, or rejection to the Village Board. The recommendation shall state the conditions of approval, if any, or the reasons for rejection.

- E. After receiving the recommendation of the Plan Commission, the Village Board shall approve, conditionally approve, or reject the preliminary plat. One copy of the plat shall be returned to the land divider, or its designated agent, with the date and action endorsed thereon; and if approved conditionally or rejected, the conditions of approval or reasons for rejection shall be endorsed thereon or attached thereto. Unless the time is extended by written agreement between the subdivider and the Village Board, failure to complete the action herein required within 90 days of filing of the preliminary plat shall constitute an approval of the preliminary plat.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-17. Final plat review.

§ 176-17. Final plat review.

- A. The land divider shall prepare and file seven copies of the final plat, together with a written application for approval, with the Village Clerk within six months of the last required approval of the preliminary plat and at least 30 days prior to the meeting of the Plan Commission at which action is desired.
- B. If the land divider expects the Village to act as the transmitting authority under Wis. Stat. § 236.12, the application shall so state, shall include a list of all other authorities to which the plat must be submitted, and shall be accompanied by such additional fees and copies of the plat as are necessary to be transmitted to each such authority.
- C. The Plan Commission shall examine the final plat for conformity with the preliminary plat and for compliance with any conditions of approval, with the requirements of this chapter, and with the requirements of any other applicable local ordinances or regulations. After reviewing the final plat, the application, and the recommendations of the Village Engineer, the Plan Commission shall refer the plat, together with its written recommendation for approval or rejection, to the Village Board. If rejection is recommended, the recommendation shall state the reasons for rejection.
- D. The Village Board shall approve or reject the final plat and return one copy thereof to the land divider or its agent with the date and action endorsed thereon. If the final plat is rejected, the reasons for rejection shall be endorsed thereon or attached thereto.

- E. If permitted by the Village Board, the final plat may include only a portion of the approved preliminary plat when the land divider wishes to plat and develop the parcel in phases. Whenever the final plat consists of less than the entire preliminary plat, the land divider shall be required to record deed restrictions prohibiting any construction on the excluded portion of the preliminary plat until all required improvements have been made or contracted for in accordance with § 176-21A and the security required by § 176-21B has been furnished.
- F. The final plat shall be entitled to approval if it conforms substantially to the preliminary plat as approved, including any conditions of that approval, conforms with any applicable Village plans and ordinances, and is submitted to the Village within six months of the last required approval of the preliminary plat.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-18. Replats.**

§ 176-18. Replats.

- A. Except as provided in Subsection B, a land divider who proposes to replat a recorded subdivision or any part of a recorded subdivision shall vacate the recorded plat as provided in Wis. Stats. §§ 236.40 through 236.44.
- B. A recorded subdivision may be replatted without circuit court action under Wis. Stats. §§ 236.40 through 236.44 where the replat complies with the requirements of Wis. Stats. Ch. 236 and the requirements of this chapter applicable to original plats and does not alter any area dedicated to the public.
- C. When a preliminary plat of a replat is filed, the Plan Commission shall hold a public hearing before it acts on the plat. Notices of the proposed replat and of the public hearing shall be mailed, at the land divider's expense, to the owners of all properties within the limits of the exterior boundaries of the proposed replat, to the owners of all properties adjacent to the proposed replat, and any abutting municipality at least 10 days prior to the time of such hearing.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-19. Certified
surveys.**

§ 176-19. Certified surveys.

- A. The land divider shall file seven copies of the certified survey map and a written application for approval with the Village Clerk, at least 15 calendar days prior to the meeting of the Plan Commission at which action is desired.
- B. The Plan Commission shall review the certified survey for compliance with the requirements of this chapter, the Comprehensive Plan, the Master Plan, and any other applicable local ordinances or requirements. After completing its review and considering the recommendations of the Village Engineer, the Plan Commission shall refer the certified survey, together with its written recommendation for approval, conditional approval, or rejection, to the Village Board. The recommendation shall state the conditions of approval, if any, or the reasons for rejection.
- C. The Village Board shall approve, conditionally approve, or reject the certified survey and return one copy thereof to the land divider or its agent with the date and action endorsed thereon; and if approved conditionally or rejected, the conditions of approval or reasons for rejection shall be endorsed thereon or appended thereto.
- D. Unless a preliminary plat has been required by the Plan Commission, or the time is extended by written agreement between the land divider and the Village Board, failure to complete the action required herein within 60 days of the filing of the map shall constitute an approval of the certified survey.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-20. Condominium
plats and conversions.**

§ 176-20. Condominium plats and conversions.

- A. The condominium platter shall file seven copies of the condominium instruments and written application for approval with the Village Clerk, at least 15 days prior to the meeting of the Plan Commission at which action is desired.
- B. The Plan Commission shall review the condominium instruments for compliance with the requirements of this chapter, the Comprehensive Plan, the Master Plan, and any other applicable local ordinances or requirements. After completing its review and considering the recommendations of the Village Engineer, the Plan Commission shall refer the condominium instruments to the Village Board, together with its written recommendation for approval, conditional approval, or rejection. The recommendation shall state the conditions of approval, if any, or the reasons for rejection.
- C. The Village Board shall approve, conditionally approve, or reject the condominium

instruments and return one copy thereof to the condominium platter or its agent with the date and action endorsed thereon, and if approved conditionally or rejected, the conditions of approval or reasons for rejection shall be endorsed thereon or appended thereto.

- D. Unless the time is extended by written agreement between the condominium platter and the Village Board, failure to complete the action required herein within 60 days of the filing of the condominium plat shall constitute an approval of the condominium plat.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-21. Improvement contract and security for improvements.

§ 176-21. Improvement contract and security for improvements.

A. Improvement contract.

- (1) Before any final plat, certified survey map, or condominium plat is inscribed by the Village Clerk, the developer shall enter into a contract with the Village wherein the developer agrees to make and install all required improvements:
 - (a) Within 18 months; or
 - (b) Where staged construction is permitted, at such other time as may be agreed to in the improvement contract.
- (2) Construction may be staged pursuant to an installation and completion schedule which is approved by the Village Board. Where staged construction is permitted, the Village Board may accept completed improvements within designated parts of the land division when they have passed the requisite inspections upon expiration of the one-year guaranty period, even though those particular improvements may not have been completed within the remainder of the land division.
- (3) In lieu of retaining private contractors, a developer may, in the sole discretion of the Village Board, contract with the Village for the installation and construction of all required improvements.

B. Security for performance.

- (1) At the time the improvement contract is entered, the developer shall furnish an irrevocable letter of credit to the Village in an amount equal to 120% of the estimated cost of all required improvements.
- (2) The letter of credit shall be in a form approved by the Village Attorney and shall name

the Village as the beneficiary.

- (3) The security posted shall guaranty:
 - (a) That all required improvements will be made and installed by the developer according to Village specifications, not later than 18 months from the date that the plat, certified survey map, or condominium plat is recorded or, where staging is permitted, that each stage will be completed by the date specified in the installation and completion schedule;
 - (b) The quality and workmanship of the public improvements for one year following their acceptance by the Village; and
 - (c) That the Village is reimbursed for all engineering, inspection, consulting and legal fees it incurs in connection with the plat, certified survey map, or condominium plat.
 - (4) The security posted shall be used, applied, or released pursuant to § 176-74 of this chapter.
- C. Governmental entities. Governmental units to which these contract and security requirements apply may file, in lieu of said contract and security, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-22. Signing of certificates of approval.

§ 176-22. Signing of certificates of approval.

After the final plat, certified survey map, or condominium plat has been approved by the Village Board, the improvement contract has been executed, and the security for performance has been furnished, the Village Clerk shall execute the certificate inscribed upon the face of the plat, certified survey map, or condominium plat attesting to the approval thereof and return it to the developer for recording.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IV, Approval Procedures / § 176-23. Recording of documents.

§ 176-23. Recording of documents.

- A. The developer shall record the final plat, certified survey map, or condominium plat with the

Sauk County Register of Deeds, together with any required deed restrictions, within 30 days after all required certificates have been executed.

- B. Within seven days after the final plat, certified survey map, or condominium plat is recorded, the developer shall file seven certified copies of the recorded document with the Village Clerk, and shall notify the Village Clerk of the volume, page number and document number assigned to the recorded document by the Register of Deeds.
- C. No building permit, occupancy permit, or other permit authorizing construction, occupancy, or use of any condominium or building site created by a land division shall be issued unless and until the copies and notice required herein have been provided to the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE V, Dedication and Reservation of Land for Public
Use**

ARTICLE V, Dedication and Reservation of Land for Public Use

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE V, Dedication and Reservation of Land for Public
Use / § 176-24. Design considerations.**

§ 176-24. Design considerations.

In designing any land division or condominium, the developer shall give due consideration to the dedication or reservation of suitable sites for future schools, parks, playgrounds, drainageways and other public purposes; and to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourses, watersheds and ravines.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE V, Dedication and Reservation of Land for Public
Use / § 176-25. Rights-of-way, easements, parks, and public sites.**

§ 176-25. Rights-of-way, easements, parks, and public sites.

Every plat, certified survey map, and condominium plat shall show on its face all streets, pedestrian

ways, bike ways, public ways, drainageways, utility easements, parks or open spaces that are being dedicated to the public or reserved for public acquisition to meet the needs created by the land division or condominium. The dimensions and limits of each dedication or reservation shall be specifically indicated on the plat, certified survey map, or condominium plat.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE V, Dedication and Reservation of Land for Public Use / § 176-26. Sites shown in Comprehensive Plan, Master Plan, or Official Map.

§ 176-26. Sites shown in Comprehensive Plan, Master Plan, or Official Map.

Whenever a land division or condominium plat embraces all or part of any street, drainageway, public way, park recreational area or open space shown on the Comprehensive Plan, the Master Plan, or the Official Map, the public way, street, drainageway, park, recreational area or open space shall be made a part of the plat, certified survey map, or condominium plat, in the locations and dimensions indicated on the applicable plan or map. Any such site shall be dedicated to the Village, if dedication has been made a condition of approval, or reserved for a period of up to two years, from the date of recording, for acquisition by the Village or such other municipal or quasi-municipal body as may be appropriate. Such reservation shall automatically expire if the Village or other governmental unit has not acquired the site, contracted for its acquisition, or commenced condemnation proceedings within said two-year period.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE V, Dedication and Reservation of Land for Public Use / § 176-27. Limitation.

§ 176-27. Limitation.

A developer shall not be required to dedicate more than 1/3 of the total area of the land division or condominium plat to meet the objectives of this chapter; provided, however, that where the land area is insufficient to meet such objectives, a fee in lieu of dedication, calculated under § 176-28C, shall be paid for any shortfall in the land dedication.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE V, Dedication and Reservation of Land for Public Use / § 176-28. Needs created by land division, condominium, or multifamily residential developments.

§ 176-28. Needs created by land division, condominium, or multifamily residential

developments.

- A. **Applicability.** The requirements of this section apply to all land divisions, residential condominiums, and to any rezoning or conditional use which would increase the number of residential dwelling units permitted at any site.
- B. **Basic requirements.** The developer shall dedicate sufficient land to provide adequate parks, playgrounds, recreational and open space areas to meet the needs to be created by the land division or condominium. At least 1,305 square feet of land shall be dedicated for each proposed residential dwelling unit. Where a definite commitment is made to the Village by the developer with respect to the number of dwelling units that will be constructed on any parcel of land which has a zoning classification that permits multifamily use, the dedication shall be based on that number. When no such commitment is made, the dedication shall be based upon the maximum number of dwelling units which the zoning classification of the parcel will permit.
- C. **Fee in lieu of dedication.** A developer may be required to pay a fee in lieu of making the required land dedication when the Village, in its sole discretion, determines that: (i) there is no land suitable for parks within the proposed land division, (ii) the dedication of land required by Subsection B is not feasible, (iii) the dedication of land would not be compatible with the Village Master Plan, or (iv) a cash contribution will better serve the public interest than a dedication of land. A dedication of park land or open space designated on the Official Map may not be waived without prior approval of the Village Board in compliance with the provisions of Wis. Stats § 62.23(6)(c).
 - (1) **Determination of fee.** The amount of any fee imposed pursuant to this section shall be \$750 times the maximum number of residential dwelling units that may be constructed on any parcel. The fees shall be based on that number.
 - (2) **Combined dedication and fee.** Subject to the limitation of § 176-27, the Village, in its sole discretion, may permit the developer to satisfy the requirements of this section by combining a land dedication with a fee payment. In such cases, the fee shall be determined by subtracting the most recent equalized value of the dedicated land, as determined by the Village Assessor, from the total fee which would have been imposed had no land been dedicated by the developer.
- D. **Park funds account.** The Village shall place any fees collected pursuant to this section in a separate account to be used for land acquisition and development of adequate park, playground, recreation and open space to meet the needs created by the land division, condominium project, or multifamily residential development.
- E. **Exceptions.** No payment or land dedication shall be required in the following situations:
 - (1) Where residential structures already exist on the parcel and there is no increase in the

number of dwelling units on the parcel.

- (2) Where the parcel is an outlot in excess of 10 acres and is not intended for sale or development.
- (3) When a lot or building site for which a payment or dedication has already been made is further divided, unless one or more new residential building sites or dwelling units are created. If the subsequent land division results in an increase in the number of permitted dwelling units, a payment or dedication based upon the additional number of dwelling units permitted shall be required.
- (4) Where the land division is located within the extraterritorial plat review jurisdiction of the Village. However, in those situations, the land divider may be required to reserve areas for public sites or open spaces for acquisition by the Village for a period of three years from the date that the plat, certified survey map, or condominium plat is recorded.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VI, Preliminary Plats**

ARTICLE VI, Preliminary Plats

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VI, Preliminary Plats / § 176-29. When required.**

§ 176-29. When required.

A preliminary plat prepared by a land surveyor, registered in Wisconsin, shall be required for all subdivisions and may be required for other land divisions. The plat shall be prepared on paper of good quality, capable of clearly legible reproduction, at a scale of not more than 100 feet to an inch.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VI, Preliminary Plats / § 176-30. Information
required.**

§ 176-30. Information required.

The preliminary plat shall correctly show the following information on its face:

- A. The name of the proposed subdivision, which shall not duplicate the name of any plat previously recorded in Sauk County.
- B. The name and address of the owner, the land divider, and the surveyor who prepared the plat.
- C. Location of proposed subdivision by government lot, quarter-quarter section, township, range, county, and state; and a location map showing the relationship between the plat and its surrounding area and existing streets.
- D. Date, scale and North point.
- E. A description of the material of which the corner marker is composed.
- F. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby.
- G. Contours at vertical intervals of not more than two feet where average slope is less than 10% or five feet where slope is 10% or greater. Elevations shall be marked on such contours based upon USGS datum.
- H. Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, based upon or established by USGS datum.
- I. Location, right-of-way width and names of all existing and platted streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- J. Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatted lands.
- K. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established center-line elevations, based upon or established by the best available data.
- L. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes; the location of manholes, catchbasins, hydrants, power and telephone poles; and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their direction and distance from the tract, size, and invert elevations.
- M. Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other similar

significant features within the tract being subdivided or immediately adjacent thereto.

- N. Location, width, length, bearing and names of all proposed streets and public rights-of-way such as alleys, posted streets and public rights and easements.
- O. Any proposed lake and stream improvement or relocation.
- P. Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways, or other public use or which are to be used for group housing, shopping centers, church sites, or other nonpublic uses not requiring lotting.
- Q. Current zoning within and adjacent to the proposed subdivision, together with any proposed zoning changes.
- R. Municipal boundary lines.
- S. Any proposed lake and stream access, with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
- T. Approximate dimensions of all lots and outlots, together with proposed lot, outlot, and block numbers.
- U. Proposed building envelopes or setback lines if different from those required by Chapter 185, Zoning.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE VI, Preliminary Plats / § 176-31. Street plans and profiles.

§ 176-31. Street plans and profiles.

The land divider shall provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon USGS data, and plans and profiles shall meet the approval of the Village Engineer.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE VI, Preliminary Plats / § 176-32. Testing.

§ 176-32. Testing.

The Village Engineer may require that borings and soundings be made in specified areas to ascertain

subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VI, Preliminary Plats / § 176-33. Covenants.**

§ 176-33. Covenants.

The Plan Commission may require submission of a draft of any protective covenants which the land divider intends to record regulating land use in the proposed subdivision or otherwise intended to protect the proposed development.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VI, Preliminary Plats / § 176-34. Surveyor's
certification.**

§ 176-34. Surveyor's certification.

The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that it fully complies with the provisions of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats**

ARTICLE VII, Final Plats

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-35. When required.**

§ 176-35. When required.

A final plat prepared by a land surveyor, registered in this state, shall be required for all subdivisions. It shall comply in all respects with the requirements of Wis. Stats. § 236.20.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-36. Information required.**

§ 176-36. Information required.

In addition to the information required by Wis. Stats. § 236.20 and Article VI hereof, the plat shall show correctly on its face the following:

- A. Exact length and bearing of the center line of all streets.
- B. Exact street width along the line of any obliquely intersecting street.
- C. Railroad rights-of-way within and abutting the plat.
- D. Setbacks or building lines required by the Plan Commission.
- E. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat.
- F. Special restrictions required by the Plan Commission relating to access control along public ways or to the provision of planting strips.
- G. The rural fire number assigned to each lot if the subdivision is within the extraterritorial plat approval jurisdiction of the Village.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-37. Deed restrictions.**

§ 176-37. Deed restrictions.

The Plan Commission may require that deed restrictions be filed with the final plat.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-38. Survey accuracy.**

§ 176-38. Survey accuracy.

The accuracy of the final plat must be certified by the Wisconsin Department of Development.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-39. Surveying and
monumenting.**

§ 176-39. Surveying and monumenting.

All final plats shall meet all the surveying and monumenting requirements of Wis. Stats. § 236.15.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-40. Certificates.**

§ 176-40. Certificates.

The final plat shall include all the certificates required by Wis. Stats. § 236.21; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VII, Final Plats / § 176-41. Staged developments.**

§ 176-41. Staged developments.

When authorized by the Village, the final plat may include only that portion of the approved preliminary plat which the land divider proposes for immediate development.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VIII, Certified Surveys**

ARTICLE VIII, Certified Surveys

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VIII, Certified Surveys / § 176-42. Use required.**

§ 176-42. Use required.

A certified survey map prepared by a land surveyor registered in Wisconsin shall be required for all land divisions creating fewer than four parcels. The certified survey map shall comply, in all respects, with Wis. Stats. § 236.34.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE VIII, Certified Surveys / § 176-43. Information required.

§ 176-43. Information required.

In addition to the information required by Wis. Stats. § 236.34, the certified survey map shall correctly show the following information on its face:

- A. All existing buildings, watercourses, drainage ditches and other features pertinent to proper division.
- B. Such setback and building lines as may be required by the Plan Commission.
- C. Date of the map.
- D. Graphic scale.
- E. Name and address of the owner, land divider, and surveyor.
- F. A clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the U.S. Public Land Survey.
- G. All lands reserved for public acquisition.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE VIII, Certified Surveys / § 176-44. Critical building locations.

§ 176-44. Critical building locations.

Any building or structure and its location on the lot shall be dimensioned to the nearest 0.1 foot where the location of such building or structure will be critical in relation to proposed property boundaries or to the zoning yard requirements.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VIII, Certified Surveys / § 176-45. Dedications,
testing, and improvements required.**

§ 176-45. Dedications, testing, and improvements required.

Any land division effectuated by a certified survey shall be subject to the provisions of Article V concerning the reservation and dedication of land; to the provisions of Article XI concerning required improvements; and to the provisions of § 176-31 concerning borings and soundings.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE VIII, Certified Surveys / § 176-46. Certification and
Village approval.**

§ 176-46. Certification and Village approval.

- A. Surveyor's certificate. The surveyor who prepared the map shall certify on the face thereof that it fully complies with all the requirements of the chapter..
- B. Village Approval. The following certificate of Village approval shall be typed, lettered or otherwise reproduced legibly on the face of the survey map:

This certified survey, including any dedications shown thereon, has been filed with and approved by the Village Board of the Village of Merrimac, Wisconsin.

_____, Village Clerk

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IX, Condominium Plats**

ARTICLE IX, Condominium Plats

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IX, Condominium Plats / § 176-47. Compliance
required.**

§ 176-47. Compliance required.

A condominium plat shall comply, in all respects, with Wis. Stats. § 703.11, which is incorporated herein by reference, and with the provisions of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IX, Condominium Plats / § 176-48. Information
required.**

§ 176-48. Information required.

In addition to the information required by Wis. Stats. § 703.11, the condominium plat shall show the following correctly on its face:

- A. All existing buildings, watercourses, drainage ditches and other features pertinent to proper division.
- B. Such setback and building lines as may be required by the Plan Commission.
- C. Date of the map.
- D. Graphic scale.
- E. Name and address of the owner, land divider, and surveyor.
- F. A clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the U.S. Public Land Survey.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE IX, Condominium Plats / § 176-49. Surveyor's
certificate of compliance.**

§ 176-49. Surveyor's certificate of compliance.

In addition to the certification required by Wis. Stats. § 703.11(4), the surveyor who prepared the

condominium plat shall also certify on the face of the condominium plat that it fully complies with the requirements of this chapter.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE IX, Condominium Plats / § 176-50. Certificate of approval.

§ 176-50. Certificate of approval.

The following certificate of Village approval shall be typed, lettered or otherwise reproduced legibly on the face of the condominium plat:

This condominium plat, including any dedications shown thereon, has been filed with and approved by the Village Board of the Village of Merrimac, Sauk County, Wisconsin.

_____, Village Clerk

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE X, Design Standards

ARTICLE X, Design Standards

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE X, Design Standards / § 176-51. Applicability of standards.

§ 176-51. Applicability of standards.

The design standards set forth in this chapter shall apply to plats, certified survey maps, and to condominium plats.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

**PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE X, Design Standards / § 176-52. Blocks.**

§ 176-52. Blocks.

- A. The widths, lengths, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic, and the limitations and opportunities of topography.
- B. Blocks in residential areas shall not be less than 400 feet nor more than 1,200 feet in length unless otherwise dictated by exceptional topography or other limiting design factors.
- C. Pedestrian ways of not less than 10 feet in width may be required near the center and entirely across any block over 900 feet in length where deemed essential by the Plan Commission to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities.
- D. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.
- E. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.
- F. All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines whenever carried on overhead poles.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE X, Design Standards / § 176-53. Lots.**

§ 176-53. Lots.

- A. The size, shape, and orientation of lots shall be appropriate for the location and zoning of the land division and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.
- B. Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- C. Lot sizes shall conform to the area and width requirements prescribed for the zoning district

in which the land is located.

- D. Every lot or condominium within the Village shall front or abut on a public street. Lots or condominiums within the extraterritorial plat review jurisdiction may abut or face a private street if permitted by the town or county.
- E. Side lot lines shall, as nearly as practicable, be at right angles to straight streets or radial to curved street lines.
- F. Lots shall not be divided by municipal boundary lines.
- G. Corner lots shall have sufficient width to permit the full building setbacks required by Chapter 185, Zoning, for each street.
- H. Depth and width of properties reserved or laid out for commercial or industrial use shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated in accordance with the Chapter 185, Zoning or State of Wisconsin ITE Parking Standard Guidelines, whichever is more restrictive.
- I. Whenever a tract is divided into large parcels, such parcels shall be arranged and dimensioned so as to allow the future division of any such parcel into normal lots in accordance with the provisions of this chapter.
- J. Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed land division or condominium building site and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream.
- K. Excessive depth in relation to width shall be avoided and a proportion of two to one shall be considered as a desirable ratio under normal conditions.
- L. Drainage patterns shall be indicated on the plat and shall take into account flow conditions from off-site as well as outflow on to downstream properties. Any drainage facilities required to handle the flow shall be constructed and designed to handle the volume and velocity of the off-site stormwater. Downstream drainage easements shall be provided as required to properly handle the flow.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE X, Design Standards / § 176-54. Streets and alleys.**

§ 176-54. Streets and alleys.

Street layouts shall conform to the arrangement, width and location indicated on the Official Map or in

the Master Plan. In areas not covered by an Official Map or in the Master Plan, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such street, and to the most advantageous development of adjoining areas. The land division shall be designed so as to provide each lot or condominium unit with satisfactory access to a public street.

- A. Arterial streets shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of collector streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
- B. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street and highway system and shall be properly related to any mass transportation system, to special traffic generators such as schools, churches, shopping centers and other concentrations of population, and to the arterial streets into which they feed.
- C. Local streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- D. Proposed streets shall extend to the boundary lines of the land division or condominium plat unless prevented by topography or other physical conditions or unless, in the opinion of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the land division, condominium, or for the advantageous development of the adjacent tracts. Temporary turnarounds may be required where the street ends at the boundary of the subdivision.
- E. Whenever the proposed land division or condominium contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access, and separation of through and local traffic shall be provided by reversed frontage, and with screen plantings in a nonaccess reservation along the rear property line, or by the use of marginal access streets.
- F. Stream or lake shores shall have 60 feet of public access platted to the low water mark at intervals of not more than one-half mile as required by Wis. Stats. § 236.16(3). The Village shall not be required to improve any lands provided for public access pursuant to this subsection.
- G. Reserve strips controlling access to streets or alleys are prohibited except where control of

such strips is placed with the Village under conditions approved by the Plan Commission.

- H. Alleys shall be provided in commercial and industrial districts for off-street loading and service access when required by the Plan Commission but shall not be used in residential areas, other than a condominium. When required, alleys shall not be less than 24 feet wide and shall be continuous through blocks. Dead-end alleys shall not be approved, and alleys shall not connect to a major thoroughfare.
- I. All proposed streets shall have direct connection with or be continuously in line with existing, planned or platted streets with which they are to connect.
- J. Streets that are likely to be extended shall extend to the boundary of the land division and shall culminate in a hammerhead turnaround which will be abandoned at the time the street is extended beyond the boundaries of the plat. The land divider shall furnish and install a barricade per Village specifications at the dead end when required by this chapter.
- K. Where an existing half street is adjacent to the tract being divided, the other half of the street shall be dedicated by the land divider.

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§ 176-55. Street design standards.

- A. Minimum right-of way. The minimum right-of-way for any proposed street or alley shall be that specified on the Official Maps on the Village Master Plan. If no width is specified therein, the minimum width shall be as follows:

Type of Street	Right-of-Way Width (feet)	Roadway Width (face-to-face curb)
Arterial	80	44 to 52*
Collector	70	40 to 44*
Local	66	33 to 38*
Marginal access	66	33
Alleys	33	24

Notes:

*As determined by the Village Engineer.

B. Intersections.

- (1) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
- (2) The number of streets converging at one intersection shall not be more than two.
- (3) The number of intersections along major streets and highways shall be held to a minimum. Wherever practicable, the distance between such intersections shall not be less than 1,200 feet.
- (4) Property lines at street intersections shall be rounded where the Plan Commission consider it necessary.
- (5) Local streets shall not necessarily continue across arterial or collector streets; but if the center lines of such minor streets approach the major streets from opposite sides within 300 feet of each other, measured along the center line of the arterial or collector street, then the location shall be so adjusted that the adjoinment across the major or collector street is continuous and a jog is avoided.
- (6) The point of curve of the center line of a curved street which intersects another street shall not be less than 15 feet, on the property side of the property line of the intersected street.
- (7) Street jogs with center-line offsets shall be prohibited. Where streets intersect major streets, their alignment shall be continuous.

C. Cul-de-sacs and turnarounds.

- (1) Streets designed to have one end permanently closed in residential areas shall not exceed 1,000 feet in length and shall terminate with a turnaround of not less than 120 feet in diameter of right-of-way.
- (2) Streets designed to have one end permanently closed in business, commercial, industrial and manufacturing areas shall terminate in a circular turnaround having a minimum right-of-way diameter of 130 feet, or such other turnaround as may be approved by the Plan Commission.

D. Street grades.

- (1) The grade of arterial and collector streets shall not exceed 6% unless necessitated by exceptional topography and approved by the Plan Commission. The grade of local streets shall not exceed 10%. The minimum grade of all streets shall not be less than 1/2 of 1%.
- (2) Street grades shall be established wherever practicable in such a manner to minimize grading, the removal of ground cover, damage to tree growth and general leveling of the topography.

E. Tangents. A tangent at least 100 feet long shall be introduced between reverse curves on major and collector streets. On all other streets, except cul-de-sac and dead-end streets, at least 100 feet of tangent shall be provided between the curve and the center line of the intersecting street. On cul-de-sacs and dead-end streets the length of the tangents shall be recommended by the Village Engineer but shall be not less than 50 feet in length.

F. Horizontal curves. When a continuous street center line deflects at any one point by more than 10°, a circular curve shall be introduced having a radius of curvature on said center line of not less than 300 feet for major streets, 200 feet on collector streets and 120 feet on all other streets.

G. Sight distance. A minimum sight distance with clear visibility measured along the center line shall be provided with at least 300 feet on major streets, 200 feet on collector streets and 120 feet on all other streets.

H. Vertical curves. All changes in street grades shall be connected by vertical curves of a minimum length equivalent to 30 times the algebraic difference in the rate of the grade for major streets and equivalent to 20 times this difference for all other streets.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE X, Design Standards / § 176-56. Street names and
building numbers.**

§ 176-56. Street names and building numbers.

- A. New street names shall not duplicate names of an already existing street within the Village.
- B. A name which is assigned to a street which is not presently a through street because of undeveloped land over which the street extension is planned shall be continued for each separate portion of the planned through street.

- C. Where a street maintains the same general direction except for short-distance curvilinear changes, the same name shall be used for the entire length of the street. House numbering difficulties shall be considered the determining factor in considering whether a change of name is necessary due to curvilinear changes.
- D. Marginal access streets and the arterial streets or highway served by them shall have the same street name and designation.

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§ 176-57. Utility and drainage easements.

- A. Easements shall be provided and dedicated on each side of all rear lot lines, and on side lot lines where necessary, for the installation of storm and sanitary sewers, gas, water mains, electric lines, telephone and cable television communication lines. Such easements shall be at least 10 feet wide and centered on the lot lines.
- B. Easements for electric, telephone, gas and cable television communication lines shall be noted as "Utility Easements" on the plat or certified survey map.
- C. All easements for storm and sanitary sewers, water mains, and pedestrian walks, and other public purposes shall be noted on the plat or certified survey as "Public Easement for" followed by reference to the use or uses for which they are intended.
- D. Where the electric or communications facilities, or both, are to be installed underground, a plat restriction shall be recorded with the plat or certified survey map stating that the final grade established by the land divider on the utility easements shall not be altered by more than six inches by the land divider, his agent, or subsequent owners of the lots on which such utility easements are located, except with written consent of the utility or utilities involved. The purpose of this restriction is to notify initial and future lot owners of the underground facilities at the time of purchase and to establish responsibility in the event of damage to such facilities or to the need to alter such facilities.
- E. Where a land division is traversed by a watercourse, drainageway channel or stream, an adequate drainageway or easement shall be provided if required by the Plan Commission. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Plan Commission, and parallel streets or parkways may be required in connection therewith. Wherever possible, the stormwater drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically

accommodate maximum potential volumes of flow; these sizes and design details to be subject to review and approval by the Village Engineer and Plan Commission. Where feasible, drainage easements should substantially maintain existing water flow patterns onto neighboring lands. If outflow is different than existing patterns the developer shall provide all necessary easements and facilities to transport the water.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XI, Required Improvements**

ARTICLE XI, Required Improvements

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XI, Required Improvements / § 176-58.
Improvements required.**

§ 176-58. Improvements required.

As a condition of approval of any plat, certified survey, or condominium plat affecting land within the Village, the developer shall be required to make, install and dedicate the following improvements without cost to the Village:

- A. Survey monuments. All land divisions shall be monumented in accordance with the requirements of Wis. Stats. § 236.15.
- B. Underground utility lines. Underground utility lines shall be installed unless this requirement is waived, in writing, by the Plan Commission because of topography, soil, water table, solid rock, boulder or other physical conditions which would make underground installation unreasonable or impractical. If overhead lines are approved, poles shall only be placed on the rear lot lines.
- C. Sanitary sewers and water mains. Sanitary sewers and water mains, together with all required appurtenances, including, when required by the Plan Commission, interceptors, force mains, lift stations, booster pumps, wells, and water main loops, shall be installed in all subdivisions and, where required by the Plan Commission, in any land division or condominium plat.
- D. Storm sewers and stormwater drainage facilities. Storm sewers and all necessary stormwater transportation, detention, or retention facilities as determined by the Village Engineer, shall be constructed or installed in all subdivisions and, where required by the Plan Commission,

in any land division or condominium division.

- E. Streets. Standard street improvements, walkways, and curb ramping as required by Wis. Stats. § 66.0909 shall be constructed, upgraded or rebuilt for all subdivisions and, where required, for any land division or condominium plat.
- F. Street lighting. Street lighting shall be installed in all subdivisions and, where required by the Plan Commission, in any land division or condominium plat.
- G. Sidewalks. Sidewalks shall be installed where deemed essential to provide safe and adequate pedestrian circulation or access to schools, playgrounds, parks, shopping centers, churches or transportation facilities.
- H. Street trees.
 - (1) The developer of any land division or condominium requiring public street improvements shall, prior to installation of any public improvements, prepare a street tree planting plan for review and approval by the Plan Commission. The tree planting plan shall, at a minimum, provide one street tree for every lot, or for every 80 feet of street frontage (whichever produces the greater number of trees).
 - (2) The tree planting plan shall include street terraces, parkways, parks, boulevards, landscaped areas with cul-de-sacs, dedicated off-road pedestrian and bike ways.
 - (3) Trees shall be a minimum of two inches in diameter and of species known to be sturdy and suitable for use as a street tree and lacking any nuisance characteristics.
 - (4) Trees shall be planted in accordance with the tree planting plan at the places, in the manner, and at the time approved by the Plan Commission.
- I. Partition fences. When the land included in any land division or condominium plat abuts upon or is adjacent to land used for farming or grazing purposes, the developer may be required to erect partition fences, satisfying the requirements of the Wis. Stats. for a legal and sufficient fence, between such land and the adjacent land.
- J. Improvements to boundary lines. All required street, sidewalk, sanitary sewer, water main, and storm sewers, and drainage improvements shall be installed to the boundary line of the land division or condominium plat unless the topography or other physical conditions make it impossible to do so or this requirement is waived by the Village Board.

ARTICLE XII, Required Improvement Procedure

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XII, Required Improvement Procedure / § 176-59.
Plans and construction specifications.**

§ 176-59. Plans and construction specifications.

The developer shall submit construction plans and specifications for all required improvements to the Village Engineer for review and approval at least four weeks before any construction bids are solicited. The Village Engineer shall be provided with such of the following plans and accompanying construction specifications as are involved in the project:

- A. Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- B. Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
- C. Storm sewer plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
- D. Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
- E. Plans and specifications for all underground utilities and facilities.
- F. Tree planting plans showing the location, age and species of any required street trees.
- G. Such additional specific plans, calculations, or information as may be required by the Village Engineer.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XII, Required Improvement Procedure / § 176-60.
Private contracts.**

§ 176-60. Private contracts.

The developer shall engage one general contractor whose qualifications have been approved by the

Village Board for each major phase of construction (grading, utilities, streets) or one general contractor for a contract which includes more than one phase of construction. No private contract shall be awarded until all bids have been reviewed by the Village Engineer.

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§ 176-61. Scheduling.

The construction schedule for all required improvements shall be approved by the Village Engineer. Construction shall not be commenced on any phase of construction until all approvals and conditional requirements are satisfied and a copy of the private contract has been filed with and approved by the Village Board.

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§ 176-62. Inspection.

Prior to commencing any work on required improvements, the developer shall make arrangements with the Village Engineer to provide for adequate inspection. The Village Engineer shall inspect and approve all completed work prior to the Village's acceptance of the improvements or any release of the security deposit pursuant to § 176-74.

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§ 176-63. Street grading.

- A. The developer shall furnish standard drawings which indicate the existing and proposed grades of streets shown on the plat, certified survey, or condominium plat to the Village Engineer for review.
- B. After the design engineering and street grades have been approved by the Village Engineer, the proposed street shall be graded to the full width of the right-of-way of the streets

proposed to be dedicated, including the vision clearance triangle on corner lots. The bed for the roadways in the street right-of-way shall be graded to the subgrade elevation. The Village Engineer shall approve all grading within rights-of-way, and said grading shall extend for a sufficient distance beyond the right-of-way to ensure that the established grade will be preserved. The grading of rights-of-way for principal and primary arterials shall only be required where necessary to provide access to the streets or lots in the project. Lots which abut principal and primary arterials shall be graded to proposed street grade or to a grade approved by the Village Engineer before any of the affected properties may be sold.

- C. The developer shall engage a registered engineer to set sub-base grade in accordance with approved center-line grade and cross section; and to set grades necessary to comply with other grading requirements, including vision clearance on corner lots, center-line and lot line grades for greenways, terrace grading for abutting streets and other required grades. The grading program shall consist of the following elements:
- (1) The stripping and removal of all topsoil, debris and vegetation within the road bed.
 - (2) Grading of full street rights-of-way to a tolerance of 0 to 0.5 feet below proposed center-line grade. Fill sections shall be constructed of approved materials, which do not include topsoil, debris, or vegetation.
 - (3) Grading beyond right-of-way to ensure that the established grade will be preserved. Slopes shall be 1:1 for cut sections and 2:1 or less for fill sections.
 - (4) Grading of vision triangle on corner lots (maximum embankment of three feet above curb elevation within a triangle formed by two intersection street lines or their projections and a line joining points on such street lines located 25 feet from the street intersection).
 - (5) Where a public greenway is included in the project, the land divider shall provide for an acceptable continuous drainageway in the greenway as determined by the Village Engineer.
 - (6) Such additional grading as may be required for lots abutting greenways, terraces of streets abutting the project, public easements for sanitary sewer and sidewalk.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XII, Required Improvement Procedure / § 176-64.
Utilities and underground facilities.**

§ 176-64. Utilities and underground facilities.

Upon approval of the subgrading and erection of barricades, the developer shall install the water mains, storm and sanitary sewers, and other utilities. Prior to commencing construction of any required utilities, the developer shall submit the construction schedule, plans, and specifications therefor to the Village Engineer for review and approval.

- A. Water valve boxes. All water valve boxes and shutoffs shall be checked by the developer's contractor to be sure of operation and brought to finished grade prior to acceptance by the Village. All valve boxes are to be clearly marked with a four-foot-by-four-foot wood post or steel fence post with a minimum height of four feet and minimum bury of four feet and painted blaze orange. The developer shall be solely responsible for the protection of valve boxes and their repair if damaged until all required improvements (including gas, telephone, electric, cable television, curb and gutter, streetlights and sidewalks) have been installed and accepted by the Village.
- B. Electric, telephone and cable television facilities. All new electric distribution lines (excluding lines of 12,000 volts or more), all new telephone lines from which lots are individually served, all television cables and services installed in the new project area shall be underground unless the Plan Commission specifically determines that:
 - (1) The placing of such facilities underground would not be compatible with the proposed development;
 - (2) Location, topography, soil, water table, solid rock, boulders, stands of trees, hedges or other physical conditions would make underground installation unreasonable or impracticable; or
 - (3) The lots to be served by said facilities can be served directly from existing overhead facilities.
- C. Associated equipment and facilities which are appurtenant to underground electric and communications systems, such as, but not limited to, substations, pad-mounted transformers, pad-mounted sectionalizing switches and abovegrade pedestal-mounted terminal boxes, may be located above ground.
- D. Temporary overhead facilities may be installed to serve a construction site or where necessary because of severe weather conditions. In the latter case, within a reasonable time after weather conditions have moderated or upon completion of installation of permanent underground facilities, such temporary facilities shall be replaced by underground facilities and the temporary facilities removed.
- E. Where the electric and communications facilities are to be installed underground, the utility easements shall be graded to within six inches of final grade by the land divider, prior to the installation of such facilities, and earth fill, piles or mounds of dirt shall not be stored on such easement areas. Utility facilities, whether overhead or underground, shall not disturb any

monumentation in the land division or condominium plat.

- F. If underground utilities and standard street improvements are installed in the same year, provision shall be made for mechanical compaction of all underground utility ditches or trenches situated within the street right-of-way.

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§ 176-65. Streetlights.

Streetlights as prescribed by the Village Engineer shall be installed at locations identified in the improvement contract.

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§ 176-66. Greenways.

Where greenways are included within the land division or condominium plat:

- A. The developer shall be responsible for an acceptable continuous drainageway through the proposed land division or condominium plat as determined by the Village Engineer. The developer shall furnish the Village Engineer with a plan outlining the greenway boundaries and locations of existing drainageways, if any. In addition, the developer shall furnish to the Village Engineer a set of cross-sections (on fifty-foot stations) of the greenway oriented upon a base line as prescribed by the Village Engineer. Where a natural drainageway exists which has acceptable hydraulic capacities, including alignment and grade as determined by the Village Engineer, construction will not be required and the existing natural growth shall be preserved. Where such natural growth is not preserved by action of the land divider or his agent, the land divider shall be responsible for repairing the disturbed areas by sodding. However, in certain locations, as determined by the Village Engineer, where the hydraulic capacities, including alignment and grade, are not acceptable, such alignment, grade and slopes shall be improved by the land divider to the interim minimum requirements of a ten-foot-wide ditch bottom with four-to-one side slopes, all to be sodded.
- B. The developer shall install permanent pipes or culverts at a grade designated by the Village Engineer under all streets crossing a greenway or drainageway. Said installation shall be in

accordance with the Standard Specifications for Road and Bridge Construction of the Department of Transportation of the State of Wisconsin. All costs of the installation shall be the responsibility of the developer. The permanent pipe or culvert shall not be installed prior to the installation of the sanitary sewer on a street crossing a greenway unless done pursuant to written agreement between the Village and the developer. Culverts required across intersections for temporary street drainage shall be furnished and installed by the developer at its expense. All temporary culverts installed by the developer shall be completely removed when the streets are constructed to standards and the area restored to as near to original condition as possible as determined by the Village Engineer.

- C. All ditching and culvert installation shall be done in strict accordance with grades approved by the Village Engineer. The developer's engineer shall be responsible for setting the required grades in the field for construction purposes.
- D. To assure proper drainage, the ground elevation along any lot line common with the boundary of a greenway shall not be less than four feet above the flowline of the greenway, or to the elevation established by the Village Engineer. All lot grading and building elevations shall provide for positive drainage. No grading or filling within the greenway limit shall be done unless authorized by the Village Engineer in writing.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
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Street construction.**

§ 176-67. Street construction.

After completion of the underground utilities and upon approval thereof, the streets shall be constructed.

A. Standard street improvements.

- (1) Standard street improvements shall include, concrete curb and gutter, bituminous base course and bituminous surface course, ornamental streetlights, pedestrian walkways, and curb ramping as required by Wis. Stats. § 66.0909 for all local streets in the land division or condominium plat and all arterial and collector streets and intersections serving the land division or condominium plat.
- (2) The construction of standard street improvements can begin only when either:
 - (a) The underground utilities were installed in the previous construction season; or
 - (b) The construction of underground utilities, including mechanical compaction and compaction tests, has been approved by the Village Engineer.

- (3) The bituminous binder course shall be applied in the initial phase of construction, but the finish surface shall not be applied until one year after the binder course unless otherwise authorized, in writing, by the Village Engineer.
- (4) Standard street improvements shall be installed to the boundary line of the land division unless the street culminates in a cul-de-sac, the topography or other physical conditions make it impossible to do so, or unless this requirement is waived, in writing, by the Plan Commission.

B. Walkways.

- (1) The surface of walkways should possess stability and firmness, be relatively smooth in texture, and have a nonslip surface.
- (2) Drainage structures should be placed flush with the surface and should not be located between a curb ramp and the corner of a street, or immediately downgrade from a curb ramp.
- (3) Steps and stepped ramps should be avoided, if possible, in order to facilitate servicing with wheeled vehicles. To facilitate movement over low barriers, a ramp should be installed. Surfaces should be nonslip but not corrugated. Where walkways are required and the street connects with any Village street, curb ramping shall be provided in accordance with Wis. Stats. § 66.0909.
- (4) Wheel stops shall be installed where wheeled vehicles may roll into a hazardous area. They should be two inches to three inches high, six inches wide, and should have breaks in them every five feet to 10 feet to allow for water drainage off of the walk.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XII, Required Improvement Procedure / § 176-68.
Improvements required prior to issuance of building permit.**

§ 176-68. Improvements required prior to issuance of building permit.

No building permit shall be issued until all survey monuments have been set and the following improvements have been completed and approved by the Village Engineer: sewer, water, storm sewers, detention and retention basins, gas and electric, street graded to subgrade at full width with a minimum of eight inches of crushed aggregate base course, and bituminous binder course.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications**

ARTICLE XIII, Acceptance of Improvements and Dedications

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications /
§ 176-69. Developer's responsibilities prior to acceptance.**

§ 176-69. Developer's responsibilities prior to acceptance.

No dedication of improvements, utilities, streets, parks, easements, rights-of-way or other sort to the Village or the public shall be considered accepted by the Village until the required public improvements attendant to such dedication have been accepted by the Village Board. The developer shall remain responsible for and liable for the maintenance, safety, and use of all required public improvements until such time as the improvement has been accepted by the Village. If, prior to acceptance, the Village is required to take any measure to maintain, protect, or guard any completed improvement that has not yet been accepted by the Village, the costs of such doing so shall be deducted from the security posted by the developer.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications /
§ 176-70. Notice of completion.**

§ 176-70. Notice of completion.

After any of the following improvements have been made, installed, and completed, the developer shall notify the Village Engineer, in writing, that the work is complete and ready for final inspection:

- A. Sanitary sewer mains and services.
- B. Storm sewers.
- C. Water mains and services.
- D. Storm detention and retention basins and drainageways.
- E. Grading, gravel, and bituminous binder course of streets.
- F. Final surface course of streets.
- G. Gas and electricity.

H. All block corners and interior lot corners have been monumented.

I. Final asphalt surface layer.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications /
§ 176-71. Inspection.**

§ 176-71. Inspection.

The Village Engineer shall inspect the improvements and notify the developer, in writing, whether they have been approved or disapproved and, if disapproved, the reason for disapproval.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications /
§ 176-72. Lien waivers and affidavits.**

§ 176-72. Lien waivers and affidavits.

After the Village Engineer has approved an improvement, the developer shall file lien waivers and such affidavits as may be required, in a form acceptable to the Village and approved by the Village Attorney, with the Village Clerk. Such waivers and affidavits shall evidence that there are no claims, actions, or demands for damages, based upon contract or tort, arising out of or in any way related to the construction and that no monies are owed to any surveyor, mechanic, contractor, subcontractor, materialman, or laborer in connection with the improvement.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications /
§ 176-73. Acceptance of improvements.**

§ 176-73. Acceptance of improvements.

After an improvement has been approved by the Village Engineer, the record documents have been furnished, and the requisite lien waivers have been filed, the Village Board will accept dedication of the improvements subject to the guaranty requirements set forth in §§ 176-21B(3) and 176-74B of this chapter.

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**PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIII, Acceptance of Improvements and Dedications /
§ 176-74. Release of security.**

§ 176-74. Release of security.

The security furnished pursuant to § 176-21B shall remain in place for period of one year after completion of the required improvements and their acceptance by the Village Board unless partially released by the Village Engineer.

- A. Partial release. Upon completion and approval of any required improvement, the Village Engineer may release some of the security furnished if:
- (1) A written application for a partial release is filed with the Village Engineer; and
 - (2) The remaining security will be sufficient to guaranty that all required improvements will be completed and that a balance equal to 20% of the total security furnished will be retained for the guaranty period.
- B. Guaranty period. Twenty percent of the security furnished pursuant to § 176-21 shall be retained for a period of one year following acceptance of the required improvements to guarantee them against defects in workmanship and materials. If any defect appears during the guaranty period, the developer shall, at its expense, install replacements or perform acceptable repairs. If the developer fails to do so, the Village may do so and deduct the cost thereof from the security deposit. Unless defects have appeared and have not been repaired, the Village will release the security to the developer upon expiration of the one-year guaranty period.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIV, Exceptions and Waivers of Requirements**

ARTICLE XIV, Exceptions and Waivers of Requirements

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XIV, Exceptions and Waivers of Requirements / §
176-75. Exceptions.**

§ 176-75. Exceptions.

- A. The requirements of Articles XI (Required Improvements), XII (Required Improvements Procedures), and XIII (Acceptance of Improvements and Dedications) shall not apply to land divisions within the extraterritorial plat approval jurisdiction of the Village.
- B. The requirements of § 176-28 shall not apply to nonresidential condominiums.
- C. This chapter shall not apply to any condominium conversion if the conversion does not increase the number of residential dwelling units on the condominium site.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE XIV, Exceptions and Waivers of Requirements / § 176-76. Waivers.

§ 176-76. Waivers.

- A. The Village may waive dedication of any required street improvements constructed within a condominium plat if the improvements are constructed to Village standards and appropriate utility easements are given to the Village for any dedicated municipal utilities constructed within the boundaries of the condominium plat. The provisions of Subsections B, C and D shall not apply to waivers requested or given under this subsection.
- B. A developer who believes that an extraordinary hardship would result from strict compliance with any requirement imposed by this chapter may apply to the Plan Commission for a waiver of such requirement. A request for any such waiver shall be made in writing at the time when the preliminary plat, certified survey map, condominium plat, or condominium conversion is submitted to the Village for review. The request shall state the specific ordinance sections for which the waiver is sought, the facts that the applicant believes may justify the granting of a waiver, and shall be supplemented with such maps, plans or other data that may aid the Village in its analysis of the application.
- C. The Plan Commission shall not act on an application for a waiver without affording interested parties an opportunity to be heard on the matter. In this regard, notice of the meeting at which the Plan Commission intends to act on the application, together with a copy thereof, shall be posted and mailed to the applicant and adjoining property owners at least 10 business days prior to the meeting.
- D. The Plan Commission shall not recommend that any waiver be granted unless it determines upon the information presented to it in each specific case that:
 - (1) The circumstances upon which the request for a waiver is based are unique to the specific parcel of land and not to any circumstances personal to the developer;

- (2) The hardship is not self-created and is not based upon the personal preference of or financial advantage to the developer;
 - (3) Because of the unique shape, size, or topography of the specific parcel, strict compliance with the requirement for which the waiver is sought would impose an unreasonable hardship upon the land divider;
 - (4) Under the circumstances presented, the requirement is unnecessary to accomplish the purpose of this chapter; and
 - (5) The granting of a waiver is unlikely to result in any increased infrastructure costs to the Village, and will not be detrimental to the public welfare or injurious to other property in the area.
- E. After the Plan Commission has reviewed the request it shall recommend whether it should be granted or denied to the Village Board. After considering the recommendation of the Plan Commission, the Village Board may reject the application or grant the waiver.
- F. The reasons for granting any waiver shall be reduced to writing and filed, together with a copy of the application and all documents pertaining thereto, in the office of the Village Clerk.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XV, Fees and Deposits**

ARTICLE XV, Fees and Deposits

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XV, Fees and Deposits / § 176-77. Application fees.**

§ 176-77. Application fees.

The application fees listed in Appendix A,^{EN(126)} as amended from time to time, are imposed for the review of any land division or condominium and shall be paid to the Village at the times the application for approval is submitted.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND**

CONDOMINIUMS / ARTICLE XV, Fees and Deposits / § 176-78. Park fees.

§ 176-78. Park fees.

Park fees imposed pursuant to § 176-28C shall be paid in a lump sum before the certification of approval on the final plat, certified survey map, condominium plat or conversion condominium plat is signed by the Village Clerk; or when the number of residential dwelling units on a site is increased because of a zoning change or conditional use permit before any building or occupancy permit is issued for the newly permitted dwelling units.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE XV, Fees and Deposits / § 176-79. Engineering, inspection, consulting and legal fees.

§ 176-79. Engineering, inspection, consulting and legal fees.

The developer shall reimburse the Village for all administrative, engineering, inspection, consulting, and legal fees incurred by the Village in connection with the proposed land division or condominium.

- A. To guaranty payment of said fees, the developer shall deposit the sum listed in Appendix A, as amended from time to time, with the Village at the time indicated in said appendix. If the expenses incurred by the Village are timely reimbursed, the deposit will be refunded within 30 days after the certified survey map or plat is approved, conditionally approved, or rejected by the Village Board. If the developer fails to reimburse the Village within 30 days of billing, the Village may reimburse itself from the funds on deposit and deduct any such reimbursement from the amount refunded to the developer.
- B. Delinquent charges in excess of any required deposit shall constitute a special charge for services rendered subject to imposition and collection under Wis. Stats. § 66.0627.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND CONDOMINIUMS / ARTICLE XVI, Penalties and Remedies

ARTICLE XVI, Penalties and Remedies

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§ 176-80. Forfeiture.

Any person who violates any provision of this chapter shall be subject, upon conviction, to a forfeiture of not less than \$100 nor more than \$1,000 plus the costs of prosecution. Each day of noncompliance or violation shall constitute a separate offense.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVI, Penalties and Remedies / § 176-81. Injunction.**

§ 176-81. Injunction.

The Village may institute injunction or other appropriate action to enjoin a violation of any provision of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVI, Penalties and Remedies / § 176-82. Assessors
plat.**

§ 176-82. Assessors plat.

The Village may order an assessors plat to be made under Wis. Stats. § 70.27 at the expense of the land divider when a subdivision is created under Wis. Stats. § 236.02(12)(b) by successive divisions.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVII, Construction of Chapter**

ARTICLE XVII, Construction of Chapter

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVII, Construction of Chapter / § 176-83. Rules of
construction.**

§ 176-83. Rules of construction.

In construing this chapter the following rules shall be observed unless construction in accordance with the rule would produce a result inconsistent with the manifest intent of the regulation:

- A. All words and phrases shall be construed according to common and approved usage; but technical words and phrases and others that have peculiar meaning in the law shall be construed according to such meaning.
- B. The singular includes the plural, and the plural includes the singular.
- C. The present tense of a verb includes the future when applicable. The future perfect tense includes past and future tenses.
- D. The word "shall" is mandatory; the word "may" is permissive.
- E. Words importing one gender extend and may be applied to any gender.
- F. All terms used which are defined in Wis. Stats. Ch. 236 shall have the same meaning ascribed thereto by the statutes unless otherwise defined in this chapter or unless the context or subject matter clearly indicates otherwise.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVII, Construction of Chapter / § 176-84.
Computation of Time.**

§ 176-84. Computation of Time.

In computing any period of time prescribed or allowed by this chapter, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a day that the Village offices are closed, in which event the next day that the Village offices are open shall be treated as the last day of the period.

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PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVII, Construction of Chapter / § 176-85.
Severability.**

§ 176-85. Severability.

The provisions of this chapter are severable. If any provision is invalid, or if the application to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVIII, Definitions**

ARTICLE XVIII, Definitions

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND
CONDOMINIUMS / ARTICLE XVIII, Definitions / § 176-86. Terms defined.**

§ 176-86. Terms defined.

In this chapter, the following words and phrases shall have the designated meaning except where the context clearly indicates otherwise:

BLOCK -- A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

BUILDING SETBACK LINE -- A line parallel to a lot line and at a distance from the lot line so as to comply with the yard and setback requirements of Chapter 185, Zoning, or any restriction on the plat which identifies a line on the plat as a building setback line.

CERTIFIED SURVEY MAP -- A map that meets the requirements of Wis. Stats. § 236.34 and is used to divide a tract of land into four parcels or less.

COMPREHENSIVE PLAN -- Any plan adopted by the Village pursuant to Wis. Stats. § 66.23 or 66.1001 for guiding and shaping the growth and development of the Village.

CONDOMINIUM CONVERSION -- The subjection of an existing building or parcel, not previously subject to a condominium declaration, to a condominium declaration.

CONDOMINIUM PLAT -- The plat used to create a condominium pursuant to Wis. Stats. Ch. 703.

CONDOMINIUM PLATTER -- Any person who subjects property to a condominium declaration.

DEVELOPER -- Any land divider or condominium platter who is required to comply with this chapter.

DRAINAGEWAY/GREENWAY -- An open area of land that is either dedicated to the Village or subjected to an easement that is intended to carry stormwater over the ground surface or to retain or detain stormwater.

EASEMENT -- The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

EXTRATERRITORIAL PLAT REVIEW JURISDICTION -- The unincorporated area within 1 1/2

miles of the corporate limits of the Village.

FINAL PLAT -- The final map of a subdivision presented for approval and which, if approved, will be recorded in the Office of the Register of Deeds for Sauk County.

LAND DIVIDER -- Any person who creates lots or parcels of land by plat or certified survey map.

LAND DIVISION -- The division of a parcel of land by a plat or certified survey map.

LOT -- A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter and any applicable zoning ordinance.

LOT AREA -- The area contained within the exterior boundaries of a lot, excluding streets and land under navigable bodies of water.

LOT DEPTH -- The average dimension of a parcel measured from the rear lot line to the front lot line along each side yard.

LOT LINES -- The peripheral boundaries of a lot as defined herein.

LOT WIDTH -- The width of a parcel of land measured along the front building line.

OFFICIAL MAP -- The map, adopted by the Village Board to conserve and promote the public health, safety, convenience, and general welfare, that shows existing and proposed streets, highways, historic districts, parkways, parks, playgrounds and the location of railroad rights-of-way, waterways and public transit facilities.

OUTLOT -- A parcel of land, other than a lot, so designated on a plat or certified survey, that is not intended for building or structure development, in the proposed land division, or is an otherwise undefined territory in a plat.

OWNER -- Any natural person, firm, association, partnership, private corporation, public or quasi-public corporation, limited-liability company, trust, or legal entity of any sort, having any pecuniary interest in lands regulated by this chapter.

PARCEL -- Any defined area of real property regardless of the manner of its legal description.

PERSON -- Any individual, limited partnership, limited-liability company, association, syndicate, partnership, corporation, trust, or other legal entity.

PLAN COMMISSION -- The Merrimac Plan Commission created pursuant to Wis. Stats. § 62.23, also known as the "Planning and Zoning Committee."

PLAT -- A map of a land division or condominium.

PRELIMINARY PLAT -- A map showing the salient features of a proposed subdivision submitted to the Plan Commission for purposes of preliminary consideration under this chapter and Wis. Stats. Ch. 236.

PROTECTIVE COVENANTS -- Contracts entered into between private parties or between private parties and public bodies pursuant to Wis. Stats. § 236.93, which constitute a restriction on the use of all private or platted property within a land division or condominium plat for the benefit of the public or

property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

REPLAT -- The process of changing, or a map or plat which changes, the boundaries of a recorded plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded plat without changing exterior boundaries of said block, lot or outlot is not a replat but is a land division. A sale or exchange of land between adjoining property owners is not a replat unless additional lots are created, one or more of the resulting lots are reduced below the minimum size required by ordinance, or the sale or exchange enables construction or use of any site that was not previously permitted under Chapter 185, Zoning.

REVERSED CORNER LOT -- A corner lot which is oriented so that it has a rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.

RIGHT-OF-WAY -- A public way dedicated to the public for its intended use.

STREET -- A public way or a common element of a condominium plat intended for vehicular or pedestrian traffic, including but not limited to those designated as a highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, court, place, way, or alley.

- A. ALLEY -- A public or private right-of-way or common element shown on a plat, certified survey map, or condominium plat, which provides secondary vehicular access to a lot, block, parcel, building, or condominium unit.
- B. ARTERIAL STREET or HIGHWAY -- A street which provides for rapid movement of concentrated volumes of through traffic over relatively long distances to, from, or within the Village.
- C. COLLECTOR STREET -- A street which carries traffic from local streets to arterial streets that provides for moderate-speed movement of persons and goods between arterials or centers of activity within the Village.
- D. LOCAL STREET -- A street used, or intended to be used, primarily for access to abutting properties. It provides for a low volume and low-speed access to collector and arterial streets.
- E. MARGINAL ACCESS STREET -- A street auxiliary to and located on the side of an arterial or collector street which provides access to abutting properties and protection from through traffic.

SUBDIVISION -- The division of a lot, parcel or tract of land for the purpose of sale or of building development, where the act of division creates:

- A. Five or more parcels or building sites; or
- B. Five or more parcels or building sites by successive divisions within five years.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 176, LAND DIVISION AND**

CONDOMINIUMS / Appendix A - Fee and Deposit Schedule

Appendix A - Fee and Deposit Schedule

Fees for the following are established from time to time by the Village Board. The current fee schedule is on file in the Village offices.

APPLICATION FEES:

- (1) Application for approval of any certified survey map.
- (2) Application for approval of any preliminary or final plats.
- (3) Application for approval of any condominium plat or condominium conversion plat.

DEPOSIT FOR VILLAGE COSTS:

- (1) Certified Survey Map review
- (2) Condominium Plat review.
- (3) Preliminary Plat review.
- (4) Final Plat review.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES**

Chapter 181, WIRELESS COMMUNICATIONS FACILITIES

[HISTORY: Adopted by the Village Board of the Village of Merrimac at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Zoning -- See Ch. 185.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS FACILITIES / § 181-1. Purpose.

§ 181-1. Purpose.

This chapter establishes general guidelines for the siting of towers and antennas within the Village of Merrimac. The purpose of this chapter is to:

- A. Provide for the location of towers in nonresidential areas and minimize the total number of towers throughout the Village;
- B. Provide for placement of antennas and towers on existing sites and collocation of new tower sites;
- C. Locate towers and antennas, to the extent possible, within areas where the adverse impact on the community is minimal;
- D. Require users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- E. Enhance the ability of the telecommunication service providers to provide such services to the community quickly, effectively, and efficiently.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS FACILITIES / § 181-2. Definitions.

§ 181-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERNATIVE TOWER STRUCTURE -- Any man-made structures such as clock towers, water towers, buildings, bell steeples, light poles, and similar alternative-design mounting structures that

camouflage or conceal the presence of antennas or towers.

ANTENNA -- Any exterior apparatus designed for the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies and wireless telecommunications signals, including but not limited to directional antennas, panels, microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

COLLOCATION -- The location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.

FAA -- The Federal Aviation Administration.

FCC -- The Federal Communications Commission.

GOVERNING AUTHORITY -- The governing authority of the Village of Merrimac.

HEIGHT -- When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, including the height of any such antenna attached thereto.

PERSONAL COMMUNICATIONS SERVICE (PCS) -- A provider of personal wireless service facilities as defined in the Telecommunications Act of 1996, 47 U.S.C. § 332, and as the same may be amended from time to time.

PERSONAL WIRELESS FACILITIES -- Transmitters, antenna structures and other types of installations used to provide personal wireless service.

PREEXISTING TOWERS AND ANTENNAS -- Shall have the meaning set forth in § 181-3B(3) of this chapter.

TOWER -- Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including but not limited to self-supporting lattice towers, guy towers, or monopole towers. The term also includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and other similar structures.

TOWER SITE -- The area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing, and other items used in connection with said tower.

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PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-3. Applicability.**

§ 181-3. Applicability.

No permit is required for the following uses:

- A. Public property. Antennas or towers located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this chapter, provided that a license or lease authorizing such antenna or tower has been approved by the

governing authority.

- B. Amateur radio and receive-only antennas. This chapter shall not apply to towers or the installation of any antenna in Subsection B(1) and (2) below if:
- (1) They are owned and operated by federally licensed amateur radio stations and are:
 - (a) Less than 60 feet in height.
 - (b) Less than 20 feet in height if mounted on a building or other structure.
 - (2) They are receive-only antennas and are:
 - (a) Less than 60 feet in height.
 - (b) Less than 20 feet in height if mounted on a building or other structure.
 - (3) Preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter, other than the requirements of § 181-4C. Any such towers or antennas shall be referred to in this chapter as "preexisting towers" or "preexisting antennas."

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-4. General provisions.**

§ 181-4. General provisions.

A. Principal or accessory use.

- (1) Antennas and towers may be considered either principal or accessory uses.
- (2) A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (3) For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.
- (4) Towers that are constructed and antennas that are installed in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a

nonconforming use or structure.

B. Aesthetics and lighting.

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness and blend in to the natural setting and built environment.
- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

C. Federal requirements. All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-5. Prohibitions.**

§ 181-5. Prohibitions.

- A. No tower shall be over 300 feet in height.
- B. No advertising message or sign shall be affixed to any tower or antenna.
- C. Towers and antennas shall be illuminated only as provided for by FCC and FAA regulations.
- D. No part of any tower or antenna shall extend across or over any right-of-way, public street, highway, sidewalk or other property beyond the siting parcel without the express written consent of the Village Administrator.
- E. No temporary mobile communication sites are permitted except in the case of equipment failure, equipment testing, equipment replacement or in the case of emergency situations.

Placement of temporary equipment shall be limited to 90 days unless extended by the express written consent of the Village Administrator.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-6. Conditional uses.**

§ 181-6. Conditional uses.

Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in zoning districts other than the residential zones shall require a conditional use permit. Only towers and antennas which are owned and operated by federally licensed amateur radio station operators and towers and antennas that are for receive-only antennas to which this chapter applies shall be allowed in residentially zoned areas. No other types of towers shall be allowed in residentially zoned areas, except as set forth in § 181-3B.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-7. Application for conditional use permit.**

§ 181-7. Application for conditional use permit.

Applicants for conditional use permits shall adhere to the following in addition to all requirements pertaining to conditional uses as set forth by the governing authority:

- A. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- B. Information required.
 - (1) Each applicant requesting a permit under this chapter shall submit the following:
 - (a) A scaled site plan, a scaled elevation view, and other supporting drawings, calculations, and other documentation.
 - (b) The location and dimensions of all improvements, including but not limited to information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this chapter.
 - (c) A copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for

abandonment and subsequent removal based on the provisions of § 181-8A. Said agreement shall also state that said agreement shall be binding on any future property owner(s) and future owner(s) of a tower, antenna, and all supporting equipment and building(s).

(2) Documentation must be signed and scaled by appropriate licensed professionals.

C. Factors considered in granting permits.

(1) The governing authority shall consider the following factors in determining whether to issue a permit:

- (a) Height of the proposed tower;
- (b) Proximity of the tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the tower, with particular reference to design characteristics that have the effect of accommodating other users and reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and
- (h) Availability of suitable existing towers and other structures as discussed Subsection D of this section.

(2) The governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the intent of this chapter is better served thereby.

D. Availability of suitable existing towers or other structures.

- (1) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna.
- (2) Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - (a) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

- (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or structure, or the antenna on the existing tower or structure would cause interference with the applicant's proposed antenna.
- (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs that would exceed new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

E. Collocation.

- (1) Any proposed telecommunication tower and tower site shall be designed, structurally, electrically, and in all other respects, to accommodate collocation of both the applicant's antenna(s) and comparable antenna(s) for at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas on the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
- (2) The holder of a permit for a tower shall allow collocation for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If an additional user(s) demonstrates, through an independent arbitrator as appointed by governing authority, that the holder of a tower permit has made access to such tower and tower site economically unfeasible, then the permit shall become null and void.

F. Setbacks and separation.

- (1) The following setbacks and separation requirements shall apply to all towers and antennas for which a special permit is required:
 - (a) Towers shall be set back a distance equal to the height of the tower from any residential structure.
 - (b) Towers, guy wires, and accessory facilities must satisfy the minimum zoning district setback requirements.

- (c) In districts other than industrial and agricultural, towers over 90 feet in height shall not be located with 1/4 of a mile from any existing tower that is over 90 feet in height.
 - (2) The governing authority may reduce the standard setbacks and separation requirements if the intent of this chapter would be better served thereby in a specific application.
- G. Security fencing. Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.
- H. Landscaping.
- (1) The following requirements shall govern the landscaping surrounding towers:
 - (a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the security fencing.
 - (b) In locations where the visual impact of the tower should be minimal, the landscaping requirement may be reduced or waived altogether as determined by the governing authority.
 - (c) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
 - (2) The governing authority may waive such requirements if the intent of this chapter would be better served thereby. Tower sites located in the industrial and agricultural zoning districts shall meet the requirements detailed in those sections.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS FACILITIES / § 181-8. Removal of abandoned antennas and towers.

§ 181-8. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned. In such circumstances, the following shall apply:

- A. The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove said antenna and/or tower, including all supporting equipment and building(s), within 90 days of receipt of notice from the governing authority notifying the

owner of such abandonment.

- B. If removal is not made to the satisfaction of the governing authority, the governing authority may remove and salvage said antenna or tower and all supporting equipment and building(s) at the property owner's expense.
- C. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-9. Right of entry.**

§ 181-9. Right of entry.

The Village Administrator or her/his designee may enter property at any reasonable time to conduct inspections to determine if all provisions of this chapter have been met.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 181, WIRELESS COMMUNICATIONS
FACILITIES / § 181-10. Violations and penalties.**

§ 181-10. Violations and penalties.

The penalty for violation of any provision of this chapter shall be as provided in Chapter 1, § 1-4 of this Code.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING**

Chapter 185, ZONING

[HISTORY: Adopted by the Village Board of the Village of Merrimac 11-11-1991; as amended through 12-1-2000. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

- Adult entertainment establishments -- See Ch. 42.**
- Mobile homes and mobile home parks -- See Ch. 91.**
- Building construction -- See Ch. 161.**
- Planned unit development -- See Ch. 170.**
- Subdivision of land -- See Ch. 176.**

Wireless communications facilities -- See Ch. 181.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE I,
Introduction**

ARTICLE I, Introduction

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE I,
Introduction / § 185-1. Title.**

§ 185-1. Title.

This chapter shall be known as, referred to, or cited as the "Zoning Ordinance, Village of Merrimac, Wisconsin" and is hereafter referred to as "this chapter."

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE I,
Introduction / § 185-2. Authority.**

§ 185-2. Authority.

This chapter is adopted under the authority granted by §§ 61.35, 62.23(7) and 87.30, Wis. Stats., and amendments thereto.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE I,
Introduction / § 185-3. Intent and purpose.**

§ 185-3. Intent and purpose.

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

- A. Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people.
- B. Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, alteration, and use of buildings, structures and land for residence,

business and manufacturing and other specified uses.

- C. Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and promote the orderly and beneficial development thereof.
- D. Regulate lot coverage, the intensity of use of lot areas, and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.
- E. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements.
- F. Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways.
- G. Secure safety from fire, panic, flooding, pollution, contamination, and other dangers.
- H. Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village.
- I. Preserve and protect the beauty of the Village.
- J. Prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts.
- K. Provide for the elimination of nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district.
- L. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.
- M. Further the maintenance of safe and healthful water conditions.
- N. Prevent flood damage to persons and property and minimize expenditures for flood relief and flood-control projects.
- O. Provide for and protect a variety of suitable commercial and industrial sites.
- P. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways.
- Q. Implement those municipal, county, watershed, and regional comprehensive plans or components of such plans adopted by the Village.
- R. Provide for the administration and enforcement of this chapter and provide penalties for the violation of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE I,
Introduction / § 185-4. Abrogation and greater restrictions.**

§ 185-4. Abrogation and greater restrictions.

- A. It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulation, or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provision of this chapter shall govern.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village.
- C. Where the conditions imposed by any provision of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE I,
Introduction / § 185-5. Severability and nonliability.**

§ 185-5. Severability and nonliability.

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

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE II, General
Provisions**

ARTICLE II, General Provisions

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE II, General
Provisions / § 185-6. Jurisdiction and general provisions.**

§ 185-6. Jurisdiction and general provisions.

- A. Jurisdiction. The jurisdiction of this chapter shall apply to all structures, lands, water and air within the corporate limits of the Village.
- B. Compliance. No new structure, new use of land, water or air or change in the use of land, water, or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a building permit and without full compliance with the provisions of this chapter and all other applicable local, county, and state regulations.
- C. District regulations to be complied with. Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged, or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- D. Yard reduction or joint use. No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking or other space required for a structure or use shall be used for any other structure or use.
 - (1) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
 - (2) Where a lot is to be occupied for a permitted use without buildings, the side yards and street yard required for such lot shall be provided and maintained unless otherwise stipulated in this chapter, except that side yards shall not be required on lots used for garden purposes without buildings or structures or on lots used for public recreation

areas.

- (3) No land which is located in a residence district shall be used for driveway, walkway, or access purposes to any land which is located in a business or industrial district or used for any purpose not permitted in a residence district.^{EN(127)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE II, General
Provisions / § 185-7. Use regulations.**

§ 185-7. Use regulations.

Only the following uses and their essential services may be allowed in any district:

- A. Permitted uses. Permitted uses, being the principal uses specified for a district.
- B. Accessory uses. Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- C. Conditional uses.
 - (1) Classes of conditional uses. Conditional uses may be denominated either "regular" or "limited."
 - (2) General conditional use provision. Provisions applicable to conditional uses generally:
 - (a) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing, and approval by the Plan Commission and Village Board in accordance with Article IV of this chapter, excepting those existent at the time of adoption of this chapter.
 - (b) Those existing uses which are classified as conditional uses for the district(s) in which they are located at the time of adoption of this chapter require no action by the Plan Commission and Village Board for them to continue as valid conditional uses, and the same shall be deemed to be regular conditional uses.
 - (c) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Plan Commission and Village Board in accordance with Article IV of this chapter.
 - (d) A conditional use(s), when replaced by a permitted use(s), shall terminate. In such case(s), the reestablishment of any previous condition use(s), or establishment of a new conditional use(s), shall require review, public hearing and approval by the Plan Commission and Village Board in accordance with Article IV of this chapter.

- (e) Provisions in this chapter relating generally to conditional uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provisions would then control), be deemed to be applicable to both regular and limited conditional uses.
- (3) Specific regular condition use provisions. Provisions applicable specifically to regular conditional uses:
- (a) Regular conditional uses, either allowed by action of the Village Board or existent at the time of adoption of this chapter, shall be nonlapsing, shall survive vacancies and change of ownership of the properties where located and shall be subject to substitution with other conditional use(s) of the same or similar type without Board approval. Change to a conditional use of other than the same or similar type shall require procedures and approval in accordance with Article IV.
 - (b) See Subsection C(2)(b) above as to conditional uses existent at the time of adoption of this chapter being deemed to be regular conditional uses.
- (4) Specific limited conditional use provisions. Provisions applicable specifically to limited conditional uses:
- (a) Limited conditional uses authorized by Village Board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - (b) Limited conditional uses authorized by the Village Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Board approval and the procedures required in Article IV of this chapter.

D. Uses not specified in code.

- (1) Uses not specified in this chapter which are found by the Plan Commission to be sufficiently similar to specified permitted uses for a district shall be allowed by the Village Administrator.
- (2) Uses not specified in this chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board after consideration and recommendation by the Plan Commission, public hearing and approval in accordance with Article IV of this chapter.

§ 185-8. Site regulations.

- A. Street frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have minimum frontage of 25 feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.^{EN(128)}
- B. Principal structures. All principal structures shall be located on a lot. Only one principal structure shall be located, erected or moved onto a lot. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot.^{EN(129)}
- C. Dedicated street. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- D. Lots abutting more restrictive district. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than 60 feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- E. Site suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Plan Commission and Village Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicants shall have an opportunity to present evidence contesting such unsuitability if they so desire. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability when making its recommendation to the Village Board.
- F. Preservation of topography. In order to protect owners from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1 1/2 horizontal to one vertical, within a distance of 20 feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of

slippage of the material involved, and all slopes shall be protected against erosion.

- G. Decks. For purposes of this chapter, decks shall be considered a part of a building or structure.
- H. Height and area exceptions.
- (1) Churches, schools, hospitals, sanitariums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet nor five stories, provided that the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
 - (2) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, microwave radio relay structures, telephone and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or codes of the Village.
 - (3) Residences in the residence district may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located.
 - (4) Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
 - (5) Buildings on through lots and extending from street to street may have waived the requirements for rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets are complied with.
 - (6) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family.
 - (7) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 12 inches.
 - (8) Open or enclosed fire escapes and fire towers may project into a required yard not more than five feet and into a required court not more than 3 1/2 feet, provided that they are so located as not to obstruct light and ventilation.^{EN(130)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts**

ARTICLE III, Zoning Districts

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-9. Districts established.**

§ 185-9. Districts established.

A. Districts. The Village of Merrimac is divided into the following zoning districts:^{EN(131)}

R-1	Single-Family Residential District
R-2	Single- and Two-Family Residential District
R-3	Multifamily Residential District
B-1	General Business District
B-2	Commercial District
B-3	Business Park District
I-1	Industrial District
A-1	Agricultural District
C-1	Conservancy District
F-1	Floodplain District

B. District boundaries. Boundaries of these districts are hereby established as shown on a map titled "Zoning Map, Village of Merrimac, Wisconsin," which is adopted by reference and made part of this chapter. Such boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; or center lines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended, unless otherwise noted on the

Zoning Map.

- C. Vacation of streets. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- D. Annexations. Annexations to or consolidations with the Village subsequent to the effective date of this chapter shall be placed in the A-1 Agricultural District unless the annexation ordinance temporarily places the land in another district.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning Districts / § 185-10. Zoning Map.

§ 185-10. Zoning Map.

- A. A certified copy of the Zoning Map shall be adopted and approved with the text as part of this chapter and shall bear upon its face the attestation of the Village President and the Village Administrator and shall be available to the public in the office of the Village Administrator.
- B. Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning Districts / § 185-11. Interpretation of district boundaries.

§ 185-11. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Village boundaries shall be construed as following municipal boundaries.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the

main tracks.

- E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in the preceding subsections shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- G. Where the district boundaries are not otherwise indicated and where the district boundaries approximately follow section lines, quarter section lines, or other logical subdivisions of sections, such section lines or other such lines shall be construed to be the district boundary lines.
- H. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.
- I. In unsubdivided property, the district boundary shown on the map shall be determined by use of the scale shown on such map.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 02-19-2014 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-12. R-1 Single-Family Residential District.**

§ 185-12. R-1 Single-Family Residential District.

A. Permitted uses:

- (1) Occupancy of single-family detached dwellings by a single family, but not commercial occupancy.
- (2) Signs permitted in the R-1 District by Article IX of this Chapter, except not informational signs.
- (3) Essential services.
- (4) Home occupations.

B. Conditional uses:

- (1) Professional offices.

- (2) Accessory buildings exceeding 120 square feet of floor area or exceeding 12 feet in height.
- (3) Attached or detached garage or carport with more than three stalls.
- (4) Bed-and-breakfast.
- (5) Swimming pools.
- (6) Tennis courts.
- (7) Guest houses; includes second-story boathouse facilities.
- (8) Public parks, churches, greenways, public playgrounds, pumping stations, golf courses and utilities.
- (9) Boathouses. Shared boathouses, by agreement with the adjoining owner, may be built with zero-foot side-yard setbacks.
- (10) Informational signs.

C. Accessory uses and structures:

- (1) One storage building incidental to the residential use, not to exceed 120 square feet of total floor space.
- (2) One attached or detached private garage or carport, with a maximum of three stalls, not to exceed 1,200 square feet of floor area.
- (3) Off-street parking facilities.

D. Dimensional Requirements for permitted and conditional uses.

- (1) Principal building:
 - (a) Principal building height, maximum: 35 feet.
 - (b) Principal building width, minimum: 20 feet.
 - (c) Principal building floor space, minimum: 1,200 square feet.
 - (d) The principal building shall be permanently attached to a basement or poured cement slab in accordance with established construction standards.
 - (e) The principal building shall have minimum 4/12 pitched roof with traditional overhang eaves.
- (2) Detached garage/carport building height, maximum: 15 feet.
- (3) Accessory building height, maximum: 15 feet.

- (4) Boathouses: see § 185-34.
- (5) Street yard setback, minimum: 25 feet. Minimum street yard setback shall apply to both street sides of a corner lot.
- (6) Rear yard setback, minimum:
 - (a) Principal building: 25 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (7) Side yard setback, minimum:
 - (a) Principal buildings: 10 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (8) Lot width, minimum: 70 feet.
- (9) Lot area average, minimum: 7,000 square feet.
- (10) Lot depth, minimum: 70 feet.
- (11) Cul-de-sac, street yard lot widths in new plats: street yard lot width variances may be allowed, so long as lot widths allow the placement of structures which conform to front, rear and side yard minimum setbacks. Aggregate lot area, average minimum square footage and lot depth minimums must conform to the district zoning specifications. Plat review by the Plan Commission with approval by the Village Board is required.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 02-19-2014 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-13. R-2 Single- and Two-Family Residential District.**

§ 185-13. R-2 Single- and Two-Family Residential District.

A. Permitted uses:

- (1) Occupancy of a single-family detached dwelling by one family or a two-family detached dwelling by two families, but not commercial occupancy.
- (2) Signs permitted in the R-2 District by Article IX of this Chapter, except not informational signs.
- (3) Essential services.
- (4) Home occupations.

B. Conditional uses:

- (1) Professional offices.
- (2) Accessory buildings exceeding 120 square feet of floor area or exceeding 12 feet in height.
- (3) Attached or detached garage or carport with more than three stalls.
- (4) Bed-and-breakfast, boardinghouse, or lodging house.
- (5) Tourist rooming house.
- (6) Community living arrangements which have a capacity for nine or more persons.
- (7) Nursery schools.
- (8) Swimming pools.
- (9) Tennis courts.
- (10) Guest houses; includes second-story boathouse facilities.
- (11) Public parks, greenways, public playgrounds, public and private schools, governmental and community service buildings and functions, pumping stations, golf courses, churches, libraries, utilities, cemeteries, and funeral homes.
- (12) Boathouses. Shared boathouses, by agreement with the adjoining property owner, may be built with zero-foot side-yard setbacks.
- (13) Informational signs.

C. Accessory uses and structures.

- (1) One storage building for each dwelling unit, incidental to the residential use, not to exceed 120 square feet of total floor space for each storage building.
- (2) One attached or detached garage or carport per dwelling unit, with a maximum of two stalls for each dwelling unit, not to exceed 800 square feet for each dwelling unit.
- (3) Horse stables, boarding stables and similar uses; includes the keeping of horses for the use of the occupants of the premises or any other agricultural animals.
- (4) Off-street parking facilities.

D. Dimensional Requirements for permitted and conditional uses.

- (1) Principal building:
 - (a) Principal building height, maximum: 35 feet.
 - (b) Principal building width, minimum: 20 feet.
 - (c) Principal building floor space, minimum: 1,200 square feet.
 - (d) The principal building shall be permanently attached to a basement or poured cement slab in accordance with established construction standards.
 - (e) The principal building shall have minimum 4/12 pitched roof with traditional overhang eaves.
- (2) Detached garage/carport building height, maximum: 15 feet.
- (3) Accessory building height, maximum: 12 feet.
- (4) Boathouses: see § 185-34.
- (5) Street yard setback, minimum: 25 feet. Minimum street yard setback shall apply to both street sides of a corner lot.
- (6) Rear yard setback, minimum:
 - (a) Principal building: 25 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (7) Side yard setback, minimum:
 - (a) Principal buildings: 10 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (8) Lot width, minimum: 70 feet.
- (9) Lot area average, minimum: 7,000 square feet.
- (10) Lot depth, minimum: 70 feet.
- (11) Cul-de-sac, street yard lot widths in new plats: street yard lot width variances may be allowed, so long as lot widths allow the placement of structures which conform to front, rear and side yard minimum setbacks. Aggregate lot area, average minimum square footage and lot depth minimums must conform to the district zoning specifications. Plat review by the Plan Commission with approval by the Village Board is required.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 02-19-2014 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-14. R-3 Multifamily Residential District.**

§ 185-14. R-3 Multifamily Residential District.

A. Permitted uses:

- (1) All uses that are permitted uses in the R-2 District.
- (2) Multifamily residential buildings.
- (3) Boarding house
- (4) Lodging house.
- (5) Charitable institutions: rest homes, convalescent homes, nursing homes, homes for the care of children, homes for the care of the aged, and homes for the care of the indigent.
- (6) Signs permitted in the R-3 District by Article IX of this Chapter, except not informational signs.

B. Conditional uses:

- (1) Professional offices.
- (2) Accessory buildings exceeding 120 square feet of floor area or exceeding 12 feet in height.
- (3) Attached or detached garage or carport with more than three stalls.
- (4) Bed-and-breakfast.
- (5) Tourist rooming house.
- (6) Community living arrangements which have a capacity for nine or more persons.
- (7) Swimming pools.
- (8) Tennis courts.
- (9) Guest houses; includes second-story boathouse facilities.
- (10) Public parks, greenways, public playgrounds, public and private schools, governmental and community service buildings and functions, pumping stations, golf courses, churches, libraries, utilities, cemeteries and funeral homes.

(11) Boathouses. Shared boathouses, by agreement with the adjoining owner, may be built with zero-foot side-yard setbacks.

(12) Informational signs.

C. Accessory uses and structures:

(1) One storage building incidental to the residential use, not to exceed 600 square feet of total floor space.

(2) Off-street parking facilities.

D. Dimensional Requirements for permitted and conditional uses.

(1) Principal building.

(a) Building height, maximum: 35 feet.

(b) Principal building width, minimum: 20 feet.

(c) Principal building floor space, minimum: 1,200 square feet.

(d) The principal building shall be permanently attached to a basement or poured cement slab in accordance with established construction standards.

(e) The principal building shall have minimum 4/12 pitched roof with traditional overhang eaves.

(2) Detached garage/carport building height, maximum: 15 feet.

(3) Accessory building height, maximum: 12 feet.

(4) Boathouses: see § 185-34.

(5) Street yard setback, minimum: 25 feet. Minimum street yard setback shall apply to both street sides of a corner lot.

(6) Rear yard setback, minimum:

(a) Principal building: 25 feet.

(b) Accessory buildings, garages and boathouses: six feet.

(7) Side yard setback, minimum:

(a) Principal buildings: 10 feet.

(b) Accessory buildings and garages: six feet.

(8) Lot width, minimum: 70 feet.

- (9) Lot area average, minimum: 12,000 square feet.
- (10) Lot depth, minimum: 70 feet.
- (11) Other requirements:
 - (a) The recreation space ratio, defined as the minimum square footage of recreation space required for each square foot of floor area, is not less than a factor of 0.14.
 - (b) The floor area ratio, defined as the maximum square footage of total floor area permitted for each foot of land area, is not more than a factor of 0.325.
 - (c) The open space ratio, defined as the maximum square footage of open space required for each square foot of floor area, is not less than a factor of 2.2.
 - (d) The living ratio, defined as the minimum square footage of nonvehicular outdoor space required for each square foot of floor area, is not less than a factor of 1.4.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-15. B-1 General Business District.**

§ 185-15. B-1 General Business District.

- A. Purpose. The B-1 District is intended to provide areas for retail business, especially which can be most suitably located along Main Street, to encourage the grouping of compatible businesses that will aid in further developing the downtown area as a retail trade center.
- B. Permitted uses:
 - (1) Hardware stores.
 - (2) Electrical supply stores.
 - (3) Paint, glass and wallpaper stores.
 - (4) Department stores, variety stores, and general merchandise stores.
 - (5) General grocery stores, supermarkets, fruit and vegetable stores, meat and fish stores, and miscellaneous food stores.
 - (6) Dairy products stores, including ice cream stores.
 - (7) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.

- (8) Candy, nut or confectionery stores.
- (9) Clothing and shoe stores.
- (10) Furniture, home furnishings and floor covering stores.
- (11) Restaurants, lunch rooms and other eating places, except drive-in type establishments.
- (12) Taverns and bars.
- (13) Drugstores and pharmacies.
- (14) Liquor stores.
- (15) Antique stores and secondhand stores.
- (16) Book and stationery stores.
- (17) Sporting goods stores.
- (18) Jewelry stores, including clock and watch stores.
- (19) Gift, novelty and souvenir shops.
- (20) Florist shops.
- (21) Camera and photographic supply stores.
- (22) Banks and other financial institutions.
- (23) Offices of insurance companies, agents, brokers and service representatives.
- (24) Offices of real estate agents, brokers, managers and title companies.
- (25) Retail laundry and dry-cleaning outlets, but not including laundering and dry-cleaning plants.
- (26) Photographic studios and commercial photography establishments.
- (27) Barbershops, beauty shops and hairdressers.
- (28) Shoe repair shops and shoeshine parlors.
- (29) Tailor shops, dressmakers shops and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments.
- (30) Advertising agencies, news agencies, and employment agencies.
- (31) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services.

- (32) Retail computer and electronics stores.
 - (33) Watch, clock and jewelry repair services.
 - (34) Offices of governmental agencies and post offices.
 - (35) Rooming and boarding houses.
 - (36) Motion-picture theaters, not including drive-in theaters.
 - (37) Billiard, pool and video establishments.
 - (38) Public transportation passenger stations, taxicab company offices and taxicab stands, but not vehicle lots or garages.
 - (39) Offices of physicians and surgeons, dentists and dental surgeons, osteopathic physicians and chiropractors, but not veterinarians' offices.
 - (40) Law offices.
 - (41) Accounting, auditing and bookkeeping firms or services.
 - (42) Engineering and architectural firms or consultants.
 - (43) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations.
 - (44) The offices, meeting places and premises of professional membership associations, civic, social and fraternal associations, business associations, labor unions and similar labor organizations, political organizations, religious organizations, charitable organizations, or other nonprofit membership organizations.
 - (45) Telephone and telegraph offices.
 - (46) Second floor residential apartments.
 - (47) Music shops.
- C. Conditional uses. The following are permitted as conditional uses in the B-1 District, provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances, and provided that where operations which are necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Plan Commission and Village Board with regard to such matters.

- (1) Hotels and motels.
- (2) Automobile service stations.
- (3) Single- or two-family detached dwellings and all uses permitted in the R-2 District, subject to residential district regulations.^{EN(150)}
- (4) Accessory buildings.
- (5) Community living arrangements which have capacity for nine or more persons.
- (6) Community uses and structures: parks, playgrounds, public and private schools, governmental and community service buildings and functions, pumping stations, churches, libraries, utilities, funeral homes, and boat landings.
- (7) The sale, service, repair, testing, demonstration or other use of piston-type engines or motors, or any type of device, appliance or equipment operated by such engines or motors. However, the number of unenclosed vehicles awaiting sale or repair shall be established by the Village Board. Enclosed vehicles shall be stored within a building or enclosed by a complete vision-barrier fence a minimum of six feet in height. Prior to construction, the materials proposed to be used for the fence and the fence design shall be approved by the Village Board. Such enclosure fences shall be maintained in such a manner so as not to constitute a nuisance.
- (8) The sale, service, repair, testing, demonstration or other use of radios, television sets, high-fidelity sound equipment, electronic amplifiers, stereophonic sound systems, musical instruments, or other such devices.
- (9) Establishments engaged in the sale, service, repair, testing, demonstration or other use of motor-driven bicycles, commonly called "motorbikes," with the provision that such activity, when carried out in an establishment which also engages in the sale, repair or other operation of non-motor-driven bicycles, shall constitute a separate and distinct use insofar as the intention of this chapter is concerned.
- (10) Establishments engaged in the sale, servicing, repairing, testing, demonstration, or other use of electrical household appliances, including washing machines, vacuum cleaners, dishwashers, irons, toasters, refrigeration, air-conditioning appliances or other similar equipment, provided specifically that areas and facilities for loading, unloading and storage of such appliances shall be provided in a manner which affords no nuisance or obstruction or unsightly conditions to the public.
- (11) Garment-pressing establishments, hand laundries and hat cleaning and blocking shops.
- (12) Coin-operated laundries and dry-cleaning establishments commonly called "laundromats" and "laundrettes."

- (13) Parking lots, parking garages, or parking structures.
- (14) Bowling alleys.
- (15) Light manufacturing and fabrications. Processes shall comply with conditions set forth in Subsection C.
- (16) Informational signs.
- (17) Boathouses: see § 185-34.^{EN(151)}

D. Prohibited uses.

- (1) Agricultural uses.
- (2) Billboards, except informational signs as herein and after defined.
- (3) Horse stables, boarding stables and similar uses; includes the keeping of horses for the use of the occupants of the premises or any other agricultural animals.
- (4) Mobile homes manufactured prior to June 15, 1976.
- (5) Camping grounds, private or public.
- (6) Animal kennels.
- (7) Warehouses and mini warehouses.^{EN(152)}
- (8) Basement level and first floor residential apartments.^{EN(153)}

E. Specifications. In areas of the B-1 Business District which are already developed, setbacks, minimum lot widths, business parking and truck unloading areas for new or renovated buildings can correspond with the existing setbacks, minimum lot widths, business parking and truck unloading areas, provided that the Plan Commission determines such action will be in keeping with the purpose of this chapter.

- (1) Building height, maximum: 45 feet.
- (2) Street yard setback: 15 feet. Minimum street yard setback shall apply to both street sides of a corner lot.
- (3) Rear yard setback:
 - (a) Principal building: 25 feet.
 - (b) Accessory buildings, garages, and boathouses: six feet.
- (4) Minimum lakeside setback for boathouses shall be six feet.

- (5) Side yard setback:
 - (a) Principal buildings: six feet.
 - (b) Accessory buildings: six feet.
- (6) Lot size: no minimum.
- (7) Lot width, minimum: no minimum.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning Districts / § 185-16. B-2 Commercial District.

§ 185-16. B-2 Commercial District.

- A. Purpose. The purpose of this district is to delineate areas appropriate for commercial uses which are not oriented to the Business District category.
- B. Permitted uses. All uses permitted in the B-1 District and the following are permitted in the B-2 District, provided that no nuisance shall be afforded to the public through excessive noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances, and provided that where operations which are necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Plan Commission and Village Board with regard to such matters.
 - (1) Printing and newspaper publishing.
 - (2) Marina sales and service.
 - (3) Bowling alleys.
 - (4) Restaurants, lunch rooms, ice cream parlors or stands, and eating places, including drive-in-type establishments.
 - (5) Retail bakeries, including those which produce some or all of the products sold on the premises, including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.
 - (6) Upholstery shops.
 - (7) Silk screen shops.

- (8) Retail laundry and dry-cleaning outlets, including laundering and dry-cleaning plants, including coin-operated laundries and dry-cleaning establishments commonly called "laundromats" and "laundrettes."

C. Conditional uses:

- (1) Multifamily and single-family residences and extensions, alterations and restorations of existing multifamily and single-family residences.
- (2) Accessory buildings.
- (3) Taverns, nightclubs and bars.
- (4) Community uses and structures: parks, playgrounds, governmental and community service buildings and functions, pumping stations, utilities, and boat landings.
- (5) Light manufacturing and fabrications. Processes shall comply with conditions set forth in § 185-15C.
- (6) Informational signs.
- (7) Warehouses and mini warehouses.^{EN(154)}

D. Prohibited uses:

- (1) Agricultural uses.
- (2) Billboards, except informational signs as herein and after defined.
- (3) Horse stables, boarding stables and similar uses; includes the keeping of horses for the use of the occupants of the premises or any other agricultural animals.
- (4) Mobile homes manufactured prior to June 15, 1976.
- (5) Camping grounds, private or public.
- (6) Animal kennels.
- (7) Basement level and first floor apartments.^{EN(155)}

E. Specifications. In areas of the B-2 Commercial District which are already developed, setbacks, minimum lot widths, business parking and truck unloading areas for new or renovated buildings can correspond with the existing setbacks, minimum lot widths, business parking and truck unloading areas, provided that the Plan Commission determines such action will be in keeping with the purpose of this chapter.

- (1) Building height, maximum: 45 feet.
- (2) Street yard setback: 15 feet. Minimum street yard setback shall apply to both street sides

of a corner lot.

- (3) Rear yard setback:
 - (a) Principal buildings: 15 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (4) Side yard setback:
 - (a) Principal buildings: six feet.
 - (b) Accessory buildings: six feet.
- (5) Lot size: no minimum.
- (6) Lot width: no minimum.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-17. B-3 Business Park District.**

§ 185-17. B-3 Business Park District.

- A. Purpose. The purpose of this district is to provide an area for wholesale, retail and service businesses that have large land area requirements or that depend on highway exposure. It is intended that the uses permitted in this district will not detract from the potential of revitalizing the downtown business district.
- B. Permitted uses:
 - (1) Service stations.
 - (2) Stores for the sale of tires, batteries or other automotive accessories.
 - (3) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes.
 - (4) Establishments engaged in the retail sale of automobiles, trucks, and other vehicles.
 - (5) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers.
 - (6) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc.
 - (7) Restaurants, lunch rooms and other eating places, including drive-in-type establishments.

(8) Commercial parking lots, parking garages, and parking structures.

C. Conditional uses. Such uses shall be subject to the consideration of the Plan Commission and Village Board with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors.

(1) General grocery stores and supermarkets.

(2) Establishments or facilities for the sale, rental, service, repair, testing, demonstration, or other use of motorcycles, motorized bicycles, go-karts, snowmobiles, aircraft, or other motorized vehicles or their components.

(3) Establishments or facilities for the sale, rental, service, repair, testing, demonstration, or other use of motorboats, other watercraft, marine supplies, motors for watercraft, or their components.

(4) Wholesale merchandise establishments.

(5) Warehouses and mini warehouses.

(6) Motor carrier facilities.

(7) Drive-in and convenience establishments serving food and beverages.

(8) Automobile repair shops, including shops for general mechanical repairs, automobile body repair, and repair of tires, but not including establishments for rebuilding, retreading, recapping, vulcanizing, or manufacturing tires, and not including establishments for painting automobiles.^{EN(156)}

(9) Light manufacturing and fabrications. Processes shall comply with conditions set forth in § 185-15C.

(10) Informational signs.

D. Prohibited uses:

(1) Billboards, except informational signs as herein and after defined.

(2) Horse stables, boarding stables and similar uses; includes the keeping of horses for the use of the occupants of the premises or any other agricultural animals.

(3) Mobile homes manufactured prior to June 15, 1976.

(4) Camping grounds, private or public.

(5) Animal kennels.

E. Specifications:

- (1) Building height, maximum: 45 feet.
- (2) Street yard setback: 50 feet.
- (3) Rear yard setback:
 - (a) Principal building: 15 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (4) Side yard setback:
 - (a) Principal buildings: six feet.
 - (b) Accessory buildings: six feet.
- (5) Lot size: no limit.
- (6) Lot width, minimum: no limit.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-18. I-1 Industrial District.**

§ 185-18. I-1 Industrial District.

- A. Purpose. This district is intended to provide an area for manufacturing and industrial activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- B. Permitted uses. No other uses are permitted as a matter of right within the I-1 District, except adult entertainment establishments as per Chapter 42 of the Village Code.^{EN(157)}
- C. Conditional uses. The following are permitted as conditional uses within the I-1 District. Such use shall be subject to the consideration of the Plan Commission and Village Board with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors.
 - (1) Manufacturing establishments, usually described as factories, mills, or plants, in which

raw materials are transformed into finished products and establishments engaged in assembling component parts of manufactured products.

- (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
- (3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage is enclosed by a suitable fence or other manner of screening.
- (4) Uses customarily incident to, or similar to, the above uses.
- (5) Agricultural uses as defined in A-1 District.
- (6) Informational signs.
- (7) Warehouses and mini warehouses.^{EN(158)}

D. Prohibited uses:

- (1) Billboards, except informational signs as herein and after defined.
- (2) Mobile homes manufactured prior to June 15, 1976.
- (3) Camping grounds, private or public.

E. Specifications.

- (1) Building height, maximum: no limit.
- (2) Street yard setback: 15 feet. Minimum street yard setback shall apply to both street sides of a corner lot.
- (3) Rear yard setback:
 - (a) Principal building: 15 feet.
 - (b) Accessory buildings, garages and boathouses: six feet.
- (4) Side yard setback:
 - (a) Principal buildings: six feet.
 - (b) Accessory buildings: six feet.
- (5) Lot size: no limit.
- (6) Lot width, minimum: no limit.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-19. A-1 Agricultural District.**

§ 185-19. A-1 Agricultural District.

A. Purpose. The A-1 District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not yet committed to urban development. It is further intended for this district to protect lands contained therein from urban development until their orderly transition into urban-oriented districts is required.

B. Permitted uses:

- (1) General farming, including agriculture, dairying, floriculture, forestry, grazing, hay orchards, truck farming, and viticulture (grape growing), provided that farm buildings housing animals, barnyards, and feedlots shall not be located in a floodland and shall be at least 100 feet from any navigable water or district boundary.
- (2) Keeping and raising of domestic stock for agribusiness, show, breeding, or other purposes incidental to the principal use of the premises and for the use of the occupants of the premises, provided that such uses shall not be located within 300 feet of a dwelling unit other than the dwelling unit on the property in question.
- (3) One farm dwelling.
- (4) Attached or detached private garages/carports accessory to permitted or permitted accessory uses.
- (5) General farm buildings, including barns, silos, sheds, and storage bins, and including not more than one roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to the setback, sign and other provisions of this chapter.
- (6) Home occupation.
- (7) Signs as regulated by the Village. See Article IX of this chapter.
- (8) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed the time necessary for such constructing.
- (9) Gardening and other horticultural uses where no sale of products is conducted on the premises.
- (10) Decorative landscape features.

C. Conditional uses:

- (1) Private swimming pool and tennis court.
- (2) Airports, airstrips, and landing fields, provided that the site is not less than 20 acres.
- (3) Commercial feedlots, livestock sales facilities and fur farms.
- (4) Professional offices.
- (5) Housing for farm laborers and seasonal or migratory farm workers.^{EN(159)}
- (6) Public and parochial schools, provided that no building shall be located within 50 feet of any lot line.
- (7) Churches, including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site, provided that no more than 10 persons shall reside on the site and no building shall be located within 50 feet of any lot line.
- (8) Essential service structures, including but not limited to buildings such as telephone exchange stations, booster or pressure-regulating stations, wells, pumping stations, elevated tanks, lift stations and electrical power substations, provided that no building shall be located within 10 feet from any lot line of an abutting lot in a residential district. Prior to granting such permit, it shall be found that the architectural design of service structures is compatible with the neighborhood in which it is to be located and thus will promote the general welfare.
- (9) Hospitals for human care, sanitariums, rest homes, and nursing homes, provided that all structures, except fences, shall be located 100 feet or more from the lot line of any abutting lot in a residential district.
- (10) Bee keeping for agribusiness.
- (11) Informational signs.
- (12) Adult entertainment establishments.^{EN(160)}

D. Prohibited uses:

- (1) All uses not specified for the A-1 District above.
- (2) Billboards, except informational signs as herein and after defined.

E. Specifications.

- (1) Building height, maximum: 45 feet (not applicable to agricultural uses).
- (2) Street yard setback: 25 feet. Minimum street yard setback shall apply to both street sides of a corner lot.

- (3) Rear yard setback: 30 feet.
- (4) Side yard setback:
 - (a) Principal buildings: six feet.
 - (b) Accessory buildings: six feet.
- (5) Lot size: enough for a bona fide farm operation.
- (6) Lot width, minimum: 150 feet.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning
Districts / § 185-20. C-1 Conservancy District.**

§ 185-20. C-1 Conservancy District.

- A. Purpose. The purpose of this district is to preserve the natural state of scenic areas in the Village and to prevent the uncontrolled, uneconomical spread of residential or other development and to help discourage intensive development of marginal lands so as to prevent hazards to public and private property.
- B. Permitted uses:
 - (1) Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds.
 - (2) Forestry and the management of forests.
 - (3) Wildlife preserves.
 - (4) The management of wildlife, including waterfowl, fish and other similar lowland animals, and nonresidential buildings used solely in conjunction with such activities.
 - (5) Public and private parks, picnic areas and similar uses.
 - (6) Preservation of areas of scenic, historic or scientific value.
 - (7) Uses similar and customarily incident to any of the above uses.
- C. Conditional uses:
 - (1) Dams, flowages, ponds, and water storage and water pumping facilities.
 - (2) Utilities, such as, but not restricted to, telephone, telegraph, power, or other transmission

lines.

- (3) Piers, docks and boathouses.
- (4) Relocation of any watercourse.
- (5) Filling, drainage or dredging of wetlands, provided that this shall conform to any shoreland zoning ordinance enacted pursuant to § 59.692, Wis. Stats.
- (6) Removal of topsoil or peat.
- (7) Golf courses, private or public.
- (8) Agriculture and animal husbandry.

D. Prohibited uses:

- (1) Commercial activities.
- (2) Billboards.
- (3) Horse stables, boarding stables and similar uses; includes the keeping of horses for the use of the occupants of the premises or any other agricultural animals.
- (4) Mobile homes manufactured prior to June 15, 1976.
- (5) Camping grounds, private or public.
- (6) Animal kennels.

E. Specifications. There are no setback, lot size, or other dimensional standards applicable in the Conservancy District.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE III, Zoning Districts / § 185-21. F-1 Floodplain District.

§ 185-21. F-1 Floodplain District.

A. Purpose. A Zone A Floodplain District, as indicated on the official FEMA Flood Hazard Boundary Map, is created pursuant to §§ 61.35, 62.23 and 87.30, Wis. Stats. Such district and its regulations contained herein are intended to minimize flood loss in areas subject to flood hazards by:^{EN(161)}

- (1) Reducing the hazard of floods to life and property through:

- (a) Prohibiting certain uses which are dangerous to life or property in time of flood.
 - (b) Restricting uses that would be hazardous to the public health in time of flood.
 - (c) Restricting uses which are particularly susceptible to flood damage, so as to alleviate hardship and reduce demands for public expenditures for relief and protection.
 - (d) Requiring permitted floodplain uses, including public facilities which serve such uses, to be protected against floods by providing flood protection at the time of initial construction.
- (2) Protecting the storage capacity of floodplains and assuring retention of sufficient floodway area to convey flood flows which can reasonably be expected to occur through:
- (a) Regulating filling, dumping, dredging and alterations of channels by deepening, widening or relocating.
 - (b) Prohibiting unnecessary encroachments in floodways.
 - (c) Encouraging open space uses such as agricultural and recreation.
- B. Warning and disclaimer of liability. The degree of flood protection intended to be provided by this chapter is considered reasonable for regulation purposes and is based on a map titled "Flood Hazard Boundary Map" as provided by FEMA or based on information provided with the Zoning Map attached to this chapter. The most recent and detailed information available shall apply when determining flood hazard boundaries. As regional flood data becomes available for portions of this district, such portions shall be placed in the floodplain district as appropriate. Larger floods may occur or the flood height may be increased by man-made or natural causes. This chapter does not imply that areas outside the floodplain zoning district boundaries or land uses permitted within such district will be totally free from flooding or flood damages, nor shall this chapter create a liability on the part of or a cause of action against the Village of Merrimac or any officer or employee thereof for any flood damages that may result from reliance on this chapter.^{EN(162)}
- C. Permitted uses. Within the Zone A Floodplain District the following uses are permitted:
- (1) Agricultural uses as permitted in § 185-19.
 - (2) Public and private recreational uses.
- D. Regulations and standards. The following regulations shall apply to all uses as permitted in this chapter:
- (1) The protection elevation or height shall correspond to all property situated within the

Village of Merrimac abutting or near Lake Wisconsin.

- (2) East and north of the Union Pacific railroad bridge, all elevations below 776 feet above sea level are in the floodplain.
- (3) West and south of the Union Pacific railroad bridge, all elevations below 775 feet below sea level are in the floodplain.
- (4) No structure or use shall be permitted that adversely affects the storage capacity of the floodplain or the efficiency or capacity of the floodway or increases flood heights, based upon the assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.
- (5) No floodplain use shall adversely affect the efficiency of or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.
- (6) Structures. All structures are prohibited with first floor or basement below the floodplain elevation as set forth above.
- (7) Fills or deposition of materials. Fill or deposition of materials may be permitted only upon a finding by the Village Board that:
 - (a) Such fill or deposition of materials is in conformity with applicable published rules and regulations.
 - (b) The fill or deposition of materials will have some beneficial purpose and the amount thereof will not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the final dimensions of the proposed fill or other material and the use to which the filled land will be put.
 - (c) The fill or deposition of material does not encroach on the channel area between the ordinary high-water marks on each bank of the stream unless a permit has been granted by the Department of Natural Resources and other requirements of this section are met; and
 - (d) The fill or other materials will be protected against erosion by riprap, vegetative cover or bulkheading.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses**

ARTICLE IV, Conditional Uses

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-22. Findings.****§ 185-22. Findings.**

The development and execution of this article are based upon the division of the Village into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, is mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land or public facilities and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-23. Administration.****§ 185-23. Administration.**

- A. The Village Board may by resolution authorize the Village Administrator to issue a conditional use permit for either regular or limited conditional use after review, public hearing, and advisory recommendation from the Plan Commission, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, and the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- B. Any development within 500 feet of the existing or proposed rights-of-way of freeways or expressways and within 1/2 mile of their existing or proposed interchange or turning lane

rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed 20 days before taking final action.

- C. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- D. Compliance with all other provisions of this chapter, such as lot width and area, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-24. Initiation of conditional use.**

§ 185-24. Initiation of conditional use.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this article in the zoning district in which such land is located.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-25. Application for conditional use.**

§ 185-25. Application for conditional use.

An application for conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures and the existing and proposed use of each structure and lot and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in § 185-28 hereinafter. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, and specifications for areas of proposed filling, grading and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; and plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-26. Hearing on application.**

§ 185-26. Hearing on application.

All requests for conditional uses shall be to the Plan Commission or the Plan Commission can on its own motion apply for conditional uses when applications for rezoning come before it. Nothing in this chapter shall prohibit the Village Board on its own motion from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in § 185-25 above, the Plan Commission shall hold a public hearing on each application for conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceeding shall be preserved in such manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-27. Notice of hearing on application.**

§ 185-27. Notice of hearing on application.

- A. Hearing. Notice of the time, place and purpose of such hearing shall be given by posting in three public places in the Village. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Village Administrator, members of the Village Board and Plan Commission and the owners of record, as listed in the office of the Village Assessor, who are owners of property in whole or in part situated within 100 feet of the boundaries of the properties affected, said notice to be sent at least 10 days prior to the date of such public hearing.
- B. Report of Plan Commission. The Plan Commission shall report its advisory recommendations to the Village Board within 30 days after a matter has been referred to it. If such action has not been reported by the Plan Commission within 30 days, the Village Board can act without such recommendation and finding.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-28. Conditional use standards.**

§ 185-28. Conditional use standards.

- A. No application for conditional use shall be recommended for approval by the Plan Commission or granted by the Village Board unless such Commission and Board shall find all of the following conditions are present:
- (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) The conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
 - (7) The proposed use does not violate floodplain regulations governing the site.
- B. When applying the above standards to any new construction of a building or any addition to an existing building the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- C. In addition in passing upon a conditional use permit, the Plan Commission and Village Board shall also evaluate the effect of the proposed use upon:
- (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution, including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways or rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.

- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent land.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal site.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-29. Denial of application for conditional use permit.**

§ 185-29. Denial of application for conditional use permit.

When an advisory recommendation of denial, with findings, of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing, when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-30. Conditions and guarantees.**

§ 185-30. Conditions and guarantees.

The following conditions shall apply to all conditional uses:

- A. Conditions. Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in § 185-28 above. In all cases in which conditional uses are granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration, landscaping, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restriction, access restriction, setbacks and yards, type of shoreline cover as provided by Department of Natural Resources regulations, specified sewage disposal and water supply systems, planting screens, piers and docks, increased parking, or any other requirements necessary to fulfill purpose and intent of this chapter.
- B. Site review. In making its recommendation, the Plan Commission shall evaluate each

application and may request assistance from any source which can provide technical assistance. The Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

- C. Alteration of conditional use. No alteration of a conditional use shall be permitted unless approved by the Village Board after recommendation from the Plan Commission.
- D. Architectural treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
- E. Sloped sites; unsuitable soils. Where slopes exceed 6% and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- F. Conditional uses to comply with other requirements. Conditional uses shall comply with all other provisions of this chapter, such as lot width and area, height, parking and loading.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-31. Validity of conditional use permit.**

§ 185-31. Validity of conditional use permit.

- A. Where the Village Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void within 12 months of the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted.
- B. Approximately 45 days prior to the automatic revocation of such permit, the Village Administrator shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of 90 days for justifiable cause, if application is made to the Village Board at least 30 days before the expiration of said permit.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-32. Complaints regarding conditional uses.**

§ 185-32. Complaints regarding conditional uses.

- A. The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Village Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this chapter.
- B. Upon written complaint by any citizen or official and after seeking an advisory recommendation from the Plan Commission, the Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in § 185-28 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, the current owner shall be given 30 days to cure the aforesaid conditional use violation. If the violation is not corrected, a hearing shall be held upon notice as provided in § 185-27 above. Any person may appear at such hearing and testify in person or be represented by an agent or attorney.
- C. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in § 185-28 or conditions previously imposed by the Board, modify existing conditions upon such use and impose additional modification of such conditional use as can be made in order to assure that § 185-28 will be met. The Village Board may revoke the subject conditional approval and direct the Village Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished the current owner of the conditional use in writing stating the reasons therefor.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Repealed 02-19-2014
/ PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-33. Bed-and-breakfast establishments.**

§ 185-33. Bed-and-breakfast establishments.

- A. Repealed

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IV,
Conditional Uses / § 185-34. Boathouse construction. EN**

§ 185-34. Boathouse construction. EN(163)

- A. Boathouses are subject to a six-foot setback from the ordinary high-water mark of navigable waters. Piers and boat hoists, being typically located over and on the bed of the lake, are subject to limitations established by the Department of Natural Resources (DNR).
- B. The construction of boathouses is permitted upon issuance of a conditional use permit by the Village of Merrimac, subject to the following restrictions:
 - (1) The boathouse must be constructed above and six feet to the landward side of the ordinary high-water mark (OHWM). The OHWM can be determined by the Village, subject to DNR verification if necessary. Construction on or over the bed of navigable waters is prohibited by state law.
 - (2) The structure must maintain a minimum setback of at least six feet from any lot line.
 - (3) A boathouse must be designed solely for the purpose of storing boats and related equipment. To design or use a boathouse for human habitation of any kind is prohibited.
 - (4) A flat-roofed structure may have a railing around its outer edge, provided that the railing is no more than 40% solid in appearance when viewed from a right angle and does not exceed 3.5 feet in height. Minimum railing height shall be three feet.
 - (5) The highest point of the roof of a boathouse shall not be more than 15 feet (including railing) above the OHWM and the pitch of the roof may not exceed a 1/12 pitch.
 - (6) No boathouse shall exceed 800 square feet in area, and its width shall not exceed 26 feet or 50% of the width of a lot as measured at the water's edge, whichever is less.
 - (7) No boathouse shall be constructed on slopes exceeding 33% (3:1) or where the top of

the wall of the structure extends below the original grade of the bank.

- (8) All exterior surfaces of a boathouse shall be earth tone in color.
 - (9) No more than one boathouse shall be permitted per lot.
- C. In reviewing permit applications for boathouses, the Village may require information regarding construction details and may reject permit applications that include design features not essential to the permitted use of such structures, that is, the storage of a boat and related equipment. Such features may include but are not limited to: porches, decks, sliding glass doors, picture windows, plumbing or heating systems, and interior dividing walls. The modification of a boathouse to include such features may be deemed a violation of this section since such features enhance a boathouse for human habitation (a prohibited use) but are not essential to the permitted use [see Subsection B(3) above].
- D. A permit from the Department of Natural Resources may be required if any part of the structure or related construction extends to the water's edge, such as a ramp or riprap along the shoreline.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V,
Nonconforming Uses, Structures and Lots**

ARTICLE V, Nonconforming Uses, Structures and Lots

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V,
Nonconforming Uses, Structures and Lots / § 185-35. Existing nonconforming
uses.**

§ 185-35. Existing nonconforming uses.

The lawful nonconforming use of a structure or land existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter.

- A. Only that portion of the land in actual use may be so continued, and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with provisions of this chapter.
- B. Total lifetime structural repairs or alterations shall not exceed 50% of the Village's assessed value of the structure at the time of its becoming a nonconforming use unless it is

permanently changed to conform to the use provisions of this chapter.

- C. Addition of new equipment or additions to present equipment may be permitted by the Village Board if such equipment does not increase the incompatibility of the nonconforming use with the neighboring uses.
- D. No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this section.
- E. For the purpose of this section the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications, or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows and other structural components.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V, Nonconforming Uses, Structures and Lots / § 185-36. Abolishment or replacement of nonconforming uses.

§ 185-36. Abolishment or replacement of nonconforming uses.

- A. If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure or land shall conform to the provisions of this chapter. When a nonconforming use of a structure is damaged by fire, explosion, flood, the public enemy, or other calamity to the extent of more than 50% of its current assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.
- B. A current file of all nonconforming uses shall be maintained by the Village Administrator listing the following: the owner's name and address; the use of the structure or land; and the assessed value at the time of its becoming a nonconforming use.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V, Nonconforming Uses, Structures and Lots / § 185-37. Existing nonconforming structures.

§ 185-37. Existing nonconforming structures.

A lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform to the lot width, lot area, yard, height, parking

and loading and access provisions of this chapter; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V,
Nonconforming Uses, Structures and Lots / § 185-38. Changes and
substitutions.**

§ 185-38. Changes and substitutions.

Once a nonconforming use or structure has been changed to conform it shall not revert back to a nonconforming use or structure. Once the Village Board or the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Village Board or the Board of Appeals.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V,
Nonconforming Uses, Structures and Lots / § 185-39. Substandard lots. EN**

§ 185-39. Substandard lots. EN(164)

In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel, provided that such lot or parcel was of record in the County Register of Deeds office before the effective date or amendment of this chapter. Such lot or parcel shall be in a separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter. If abutting lands and the substandard lot are in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following specifications:

A. Principal building:

- (1) Building height, maximum: 35 feet.
- (2) Building width, minimum: 20 feet.
- (3) Building floor space, minimum: 1,200 square feet.
- (4) The building shall be permanently attached to a basement, foundation or poured cement slab in accordance with established construction standards.
- (5) The building shall have a minimum 4/12 pitched roof with traditional overhang eaves.

- B. Detached garage/carport building height, maximum: 15 feet.
- C. Accessory building height, maximum: 12 feet.
- D. Street yard setback, minimum: 25 feet.
 - (1) Minimum street yard setback shall apply to both street sides of a corner lot.
 - (2) Boathouses: refer to § 185-34 for construction regulations.
- E. Rear yard setback, minimum:
 - (1) Principal building: 25 feet.
 - (2) Accessory buildings, garages/carports and boathouses: six feet.
- F. Front and rear yard variances may be allowed by conditional use permit where a lot is located between two lots, each of which has a principal building located thereon; the front and rear yard requirement shall not be less than the average setback from the street and rear lot lines of said existing buildings.
- G. Side yard setback, minimum:
 - (1) Principal buildings: six feet.
 - (2) Accessory buildings, garages and boathouses: six feet.
- H. Lot width, minimum: 32 feet.
- I. Lot area size, minimum: 4,000 square feet.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE V,
Nonconforming Uses, Structures and Lots / § 185-40. Existing residential
structures permitted as conditional use. EN**

§ 185-40. Existing residential structures permitted as conditional use. EN(165)

It is hereby provided that all existing residential structures currently in existence at the time of the adoption of this chapter are to be considered to have been conditionally permitted as provided by Article IV of this chapter. Subsequent modifications to those structures may be made pursuant to Article IV, except that no modification of the structure that further violates the setback requirements applicable for the zoning district in which the structure is located may be authorized.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

**PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures**

ARTICLE VI, Accessory Uses or Structures

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-41. Principal use to be present.**

§ 185-41. Principal use to be present.

An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-42. Placement restrictions.**

§ 185-42. Placement restrictions.

An accessory use or structure in a residential district may be established subject to the following regulations:

- A. Accessory building number limits. In any residential district, where a principal building and a detached garage/carport or attached garage/carport exists, one additional accessory building may be placed on a lot. In addition, a lakeside boathouse may be allowed by conditional use permit. EN(166)
- B. Accessory building size limits. No detached accessory building or structure shall exceed the height of the principal building or structure.
- C. Attached accessory buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
- D. Detached accessory buildings. No detached accessory building shall exceed 1,200 square feet or occupy any portion of the required street yard. No detached accessory building shall occupy more than 40% of the required rear yard or be located within three feet of any other accessory building. An accessory building shall not be nearer than 10 feet to the principal structure unless the applicable Building Code regulations in regard to one-hour fire-resistive construction are complied with. No accessory uses or structures can be forward of the front

line of the principal structure except by authorization of a conditional use permit.^{EN(167)}

- E. Accessory building setbacks. Accessory building setbacks shall be as prescribed for each zoning district.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-43. Use restrictions in residential districts.**

§ 185-43. Use restrictions in residential districts.

Accessory uses or structures in residential districts shall not involve the conduct of any business, trade, or industry, except for home occupations as defined herein, and shall not be occupied as a dwelling unit.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-44. Placement restrictions in
nonresidential districts.**

§ 185-44. Placement restrictions in nonresidential districts.

An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-45. Reversed corner lots.**

§ 185-45. Reversed corner lots.

When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the street yard required on the adjacent interior lot to the rear nor nearer than five feet to the side line of the adjacent structure.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-46. Landscaping and decorative uses.**

§ 185-46. Landscaping and decorative uses.

Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-47. Temporary uses.**

§ 185-47. Temporary uses.

Temporary accessory uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Village Administrator.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-48. Garages in embankments in street
yards.**

§ 185-48. Garages in embankments in street yards.

Where the mean natural grade of a street yard is more than eight feet above the curb level, a private garage may be erected within the street yard, provided that:

- A. Such private garage shall be located not less than five feet from the front lot line.
- B. The floor level of such private garage shall be not more than one foot above the curb level.
- C. At least 1/2 the height of such private garage shall be below the mean grade of the street yard.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-49. Outside storage of firewood.**

§ 185-49. Outside storage of firewood.

- A. Firewood shall be neatly stacked and may not be stacked closer than one foot to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fence" as used in this section shall not include hedges and other vegetation. Storage in street yards is not permitted.^{EN(168)}
- B. All brush, debris, and refuse from processing of firewood shall be promptly and properly

disposed of and shall not be allowed to remain on the premises.

- C. Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.^{EN(169)}
- D. Not more than 5% of the side and rear yard may be used for storage of firewood any one time.^{EN(170)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-50. Fences and hedges.**

§ 185-50. Fences and hedges.

- A. Definitions. Refer to Article XIII for definitions pertaining to this section.
- B. Height of fences regulated.
 - (1) Except as provided in § 185-54, a fence, wall, hedge, or shrubbery may be erected, placed, maintained, or grown along a lot line on residentially zoned property or adjacent thereto to a height not exceeding five feet above the ground level, except that no such fence, wall, hedge, or shrubbery which is located in a required front or corner side yard shall exceed a height of three feet. Where such lot line is adjacent to nonresidentially zoned property, there shall be an eight-foot limit on the height of a fence, wall, hedge, or shrubbery along such lot line.
 - (2) No fence, wall, hedge, or shrubbery shall be erected, placed, maintained, or grown along a lot line on any nonresidentially zoned property to a height exceeding eight feet.
 - (3) In any residence district no fence, wall, hedge, or shrubbery shall be erected, constructed, maintained, or grown to a height exceeding three feet above the street grade nearest thereto within 25 feet of the intersection of any street lines or of street lines projected.
- C. Setback for residential fences. All boundary line fences shall be located entirely on private property of the person, firm or corporation constructing or causing the construction of such fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the boundary line of the respective properties. In any case where the exact location of any boundary line is in doubt, the party erecting the fence shall submit to the Village Administrator a survey thereof prepared by a registered land surveyor, before the fence can be erected.

- D. Security fences. Security fences are permitted on the lines in all districts except residential districts but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- E. Prohibited fences. No fence shall be constructed in a residentially zoned district which is designed to electrically shock or which uses barbed wire, except that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are 10 feet above the ground or height and project toward the fenced property and away from any public area.
- F. Fences to be repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- G. Temporary fences. Fences erected for the protection of planting, or to warn of construction hazards, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four-foot intervals. Such fences shall comply with the setback requirements set forth in this section. Said fences shall not be erected for more than 45 days.
- H. Nonconforming fences and hedges. Any fence or hedge existing on the effective date of this chapter and not in conformance with this section may be maintained, but any alteration, modification or improvement of said fence shall comply with this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VI,
Accessory Uses or Structures / § 185-51. Swimming pools.**

§ 185-51. Swimming pools.

- A. Definition. A private or residential pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water to any point greater than 1 1/2 feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- B. Exempt pools. Storable children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of less than 48 inches and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this section.^{EN(171)}
- C. Permit required. Before work is commenced on the construction or erection of a private or residential swimming pool or on any alterations, additions, remodeling or other

improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Village Administrator. Plans and specifications and pertinent explanatory data should be submitted at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. A fee as provided on the Village Fee Schedule shall accompany such application.^{EN(172)}

D. Construction requirements. In addition to such other requirements as may be reasonably imposed by the Village Administrator, the Village Administrator shall not issue a permit for construction as provided for in Subsection C unless the following construction requirements are observed:

- (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and codes and with any and all ordinances of the Village now in effect or hereafter enacted.
- (2) All plumbing work shall be in accordance with all applicable ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into the sanitary sewer system or onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
- (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed, and used in conjunction with a private swimming pool shall be in conformance with state laws and Village ordinances regulating electrical installations.

E. Setbacks and other requirements.

- (1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in this chapter for an accessory building, and in no case shall the water line of any pool be less than 10 feet from any lot line.

F. Fence.

- (1) Pools within the scope of the section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than four feet in height and so constructed as

not to have voids, holes, or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

- (2) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of 48 inches from ground level. Access ladders or gates shall be kept locked while the pool is not in actual use.

G. Compliance. All swimming pools existing at the time of passage of this chapter, which are not satisfactorily fenced, shall comply with the fencing requirements of this section, or when water is placed in the pool.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VII, Mobile
Home Parks and Trailer Camps**

ARTICLE VII, Mobile Home Parks and Trailer Camps

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VII, Mobile
Home Parks and Trailer Camps / § 185-52. Mobile home parks. EN**

§ 185-52. Mobile home parks. EN(173)

Mobile home parks shall be designed in accordance with Chapter Comm 95, Wisconsin Administrative Code. In addition the following requirements shall be complied with:

- A. The minimum size of a mobile home park shall be five acres.
- B. The minimum lot size per mobile home shall be 3,000 square feet.
- C. The minimum width of a mobile home site shall be 40 feet.
- D. The minimum distance between mobile home trailers shall be 20 feet.
- E. The minimum distance between mobile home and service road shall be 10 feet.
- F. Each mobile home site shall be connected to the Village of Merrimac water and sewage disposal system.
- G. All drives, parking areas and walkways shall be surfaced. There shall be one parking space for each mobile home plus additional parking spaces within the park for automotive vehicles,

the combined total of which shall be not less than 1 1/4 parking spaces for each mobile home space.

- H. No mobile home sales office or other business or commercial use shall be located on the mobile home park site. Laundries, washrooms, recreation rooms, maintenance equipment storage and one office are permitted.
- I. A minimum side yard setback of 40 feet at all front, side and rear lot lines of the mobile home park is required.
- J. Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by:
 - (1) A temporary plant with fast-growing characteristics, capable of reaching a height of 15 feet or more; or
 - (2) A permanent evergreen planting, the individual trees to be of such a number and so arranged that within 10 years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.
- K. All mobile homes shall meet the current construction standards of the Mobile Home Manufacturing Association.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VII, Mobile
Home Parks and Trailer Camps / § 185-53. Trailer camps.**

§ 185-53. Trailer camps.

Except as otherwise provided in this chapter, no trailer shall be occupied except in a federal, state or county camp or in a private campsite. Private campsites shall meet the following conditions:

- A. Each trailer site shall be plainly marked and surfaced.
- B. Maximum number of trailer sites shall be 50 per acre.
- C. All drives and parking areas other than those at individual trailer sites shall be surfaced.
- D. Central toilet, shower and washing facilities shall be provided in sufficient quantity, as determined by the State Department of Health and Family Services requirements in accordance with HFS 178, Wisconsin Administrative Code.
- E. All water and sewage supplies shall be connected to the Village of Merrimac water and sewage disposal system.

F. No trailer shall be less than 40 feet from the front, side or rear lot lines of the camp.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic,
Loading, Parking and Access**

ARTICLE VIII, Traffic, Loading, Parking and Access

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic,
Loading, Parking and Access / § 185-54. Traffic visibility.**

§ 185-54. Traffic visibility.

- A. On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the center-line grades of intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines 25 feet from the point of intersection.
- B. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic,
Loading, Parking and Access / § 185-55. Loading requirements.**

§ 185-55. Loading requirements.

- A. Loading space requirements. On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:
 - (1) Retail, wholesale, warehouse, service, manufacturing and industrial establishments:

- (1) Retail, wholesale, warehouse, service, manufacturing and industrial establishments:

Floor Area (square feet)	Loading Space
0 to 2,000	
2,001 to 10,000	1
10,001 to 20,000	1
20,001 to 40,000	2
40,001 to 50,000	3
Each additional 50,000	1

- (2) Hotels, offices, hospitals, and places of public assembly:

Floor Area (square feet)	Loading Space
0 to 2,000	
2,001 to 10,000	1
10,001 to 50,000	2
50,001 to 100,000	2
Each additional 25,000	1

- (3) Funeral homes:

Floor Area (square feet)	Loading Space
0 to 2,000	
2,001 to 4,000	1
4,001 to 6,000	1
Each additional 10,000	1

- B. Multiple or mixed uses. Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- C. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.
- D. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 40 feet, and vertical clearance of at least 15 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 25 feet in length, and eight feet in vertical clearance. All loading berths shall be completely screened from residential properties by building walls or a uniformly painted solid fence, wall or door, or any combination thereof, not less than eight feet in height.
- E. Surfacing. All open off-street loading berths shall be improved with a compacted macadam base, not less than seven inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather dustless material.
- F. Repair and service. No motor vehicle repair work shall be permitted in conjunction with loading facilities provided in any residence district.
- G. Central loading. Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
 - (1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
 - (2) No zoning lot served shall be more than 150 feet removed from the central loading area.
 - (3) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and have a clearance of not less than seven feet.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic,
Loading, Parking and Access / § 185-56. Parking requirements.**

§ 185-56. Parking requirements.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Village

Board, after a recommendation from the Plan Commission. Requests for said parking lots shall be accompanied by detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- A. Access. Adequate access to a public street shall be provided for each parking space.
- B. Design standards. Each required off-street parking space shall have a stall width of at least 10 feet and a stall length of at least 18 feet. Such space shall have a vertical clearance of at least 6 1/2 feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: aisles shall be not less than 24 feet wide for ninety-degree parking, 18 feet wide for sixty-degree parking, 15 feet wide for forty-five-degree parking (angle shall be measured between center line of parking space and center line of aisle), and 12 feet wide for parallel parking. For parallel parking the minimum length of the parking space shall be increased to 23 feet. No parking area of more than two spaces shall be designed so as to require any vehicle to back into a public street. Any parking area of more than five spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands. EN(174)
- C. Location. Location shall be on the same lot as the principal use or not over 400 feet from the principal use.
 - (1) Off-street parking is permitted in all yards of all districts, except in the street yards of single-family and multifamily residence districts, but shall not be closer than five feet to a side lot line, right-of-way line, or rear lot line.
 - (2) Off-street parking in the single-family residence and multifamily residence districts is permitted in the street yard on the driveway, even though closer than five feet to a side lot line, providing the driveway conforms to the requirements in § 185-57.
 - (3) Parking of motor vehicles is prohibited except on hard-surfaced driveways. EN(175)
- D. Surfacing. All open off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless, all-weather material capable of carrying a wheel load of 4,000 pounds.
- E. Landscaping requirements.
 - (1) Plans. All plans for proposed parking areas, at the discretion of the Village Administrator, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.

- (2) Special residential requirements. Those parking areas for five or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means built and maintained at a minimum height of five feet from said lot line. Said fence shall be located a minimum of one foot from said lot line.
 - (3) Repair and service. No motor vehicle repair work shall be permitted in association with parking facilities provided in residence districts.
 - (4) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. In no case shall such lighting exceed three footcandles measured at the lot line.
- F. Curbs. Curbs or barriers shall be installed a minimum of four feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- G. Number of stalls. The number of parking stalls required is shown in the following table, except that uses as itemized in the B-1 and B-2 Zoning Districts shall provide one parking space for each 200 square feet of gross floor area in excess of 2,000 square feet, except as indicated below:

Use	Minimum Parking Required
Dwellings, single- and two-family homes	2 stalls for each dwelling unit
Dwellings, multifamily	2 stalls for each dwelling unit
Housing for the elderly (non-nursing home)	0.5 space for each dwelling with 1/2 of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Village Board may order them installed
Hotels and motels	1 stall for each guest room plus 1 stall for each 3 employees
Dormitories and rooming and boarding houses	1 stall for each bed
Retirement homes and orphanages	1 stall for each 4 beds plus 1 stall for each 2 employees
Hospitals, sanitariums, institutions and rest and nursing homes	1 stall for each 3 beds plus 1 stall for each 2 employees
Medical and dental clinics	3 stalls for each doctor

Churches, theaters, auditoriums, community centers, and other places of public assembly

Colleges and secondary and elementary schools

Restaurants, bars, clubs and lodges and places of entertainment

Manufacturing and processing plants (including meat and food processing), laboratories and warehouses

1 stall for each 6 seats

1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or older

1 stall for each 3 seats and 1 space for each 2 employees.

1 stall for every 2 employees; number of employees shall be construed to mean the maximum number on the premises at one time

Use

Minimum Parking Required

Financial institutions, business, government and professional offices, and retail and service establishments

1 stall for each 250 square feet of floor area and 1 stall for each 2 employees

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PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic,
Loading, Parking and Access / § 185-57. Driveways.**

§ 185-57. Driveways.

All driveways installed, altered, changed, replaced, or extended after the effective date of this chapter shall meet the following requirements and must be approved as to location by the Village Administrator:

- A. Islands between driveway openings shall be provided with a minimum of six feet between all driveways.
- B. The maximum number of driveway openings for vehicular ingress and egress permitted for lots with a width less than 100 feet shall be one and for lots with a width greater than 100 feet shall be two.
- C. Vehicular entrances and exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
- D. Openings for vehicular ingress and egress shall not exceed 30 feet at the property line and 35 feet at the roadway for all uses, except the maximum curb opening for all residential districts shall be 25 feet.
- E. Driveways shall be at least 10 feet wide and a maximum of 35 feet at the roadway for all uses, except the maximum curb opening for all residential districts shall be 25 feet at the roadway.
- F. All driveways shall be hard surfaced with either hot mix or cold mix asphalt or concrete and shall be properly drained so as not to create either a hazard or nuisance on either private or public property.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic,
Loading, Parking and Access / § 185-58. Highway access.**

§ 185-58. Highway access.

For any driveway abutting a state or federal highway, an application for a driveway permit shall be made by the owner to the Department of Transportation, subject to the approval of the Village Administrator.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic, Loading, Parking and Access / § 185-59. Storage and parking of recreational vehicles.

§ 185-59. Storage and parking of recreational vehicles.

- A. Definitions. Refer to Article XIII for definitions pertaining to this section.
- B. Permitted parking or storage of recreational vehicles. In all residential and commercial districts provided for in this chapter, it is permissible to park or store a recreational vehicle or boat and boat trailer on private property in any one of the following:
 - (1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
 - (2) Parking is permitted outside in the side yard or rear yard provided it is not nearer than five feet to the lot line.
 - (3) Parking is permitted outside on a hard-surfaced or well-drained gravel driveway provided that:
 - (a) Space is not available in the rear yard or side yard or there is no reasonable access to either the side yard or rear yard. A corner lot is always deemed to have reasonable access to the rear yard. A fence is not necessarily deemed to prevent reasonable access.
 - (b) Inside parking is not possible.
 - (c) The unit is parked perpendicular to the curb.
 - (d) The body of the recreational vehicle or boat must be at least 15 feet from the face of any curb.
 - (e) No part of the unit may extend over the public sidewalk or public right-of-way.
 - (4) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not

be:

- (a) Used for dwelling purposes, except by guests for overnight sleeping. Guests are permitted to park recreational vehicles, in accordance with this section, for a maximum of 14 days in any one calendar year.
 - (b) Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - (c) Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- C. Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- D. The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked, except as set forth in Subsection B(4)(a).

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE VIII, Traffic, Loading, Parking and Access / § 185-60. Parking and storage of tractors and machinery. EN

§ 185-60. Parking and storage of tractors and machinery. EN(176)

No person, firm or corporation shall park, keep or maintain on properties zoned as residential or multiple residential dwellings the following types of items: dump trucks, auto wreckers, tractors, farm equipment and road or construction machinery. Said items may not be kept or parked on said premises unless they are in enclosed buildings, except for the purpose of unloading or servicing the premises.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IX, Signs and Billboards

ARTICLE IX, Signs and Billboards

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IX, Signs

and Billboards / § 185-61. Signs.

§ 185-61. Signs.

Except for signs located in residential districts as permitted in Subsection A below, no sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered within the Village without a building permit and without being in conformity with the provisions of this section. The sign shall also meet all the structural requirements of the Building Code.^{EN(177)}

A. Residential district signs. All signs are prohibited in all residential districts except the following:

- (1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two feet in height and 10 feet in length.
- (2) Real estate signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.
- (3) Name, occupation and warning signs not to exceed two square feet located on the premises.
- (4) Bulletin boards for public, charitable or religious institutions not to exceed eight square feet in area located on the premises.
- (5) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed on metal affixed flat against a structure.
- (6) Official signs, such as traffic control, parking restrictions, information and notices.
- (7) Temporary signs when authorized by the Village Administrator for a period not to exceed 30 days.
- (8) Garage and rummage sale signs do not require a permit but are restricted to a five-day period for the sale duration.
- (9) Informational signs as before, herein and after defined.

B. Signs in commercial and industrial districts. Signs are permitted in all commercial and industrial districts subject to the following restrictions:

- (1) Wall signs placed against the exterior walls of building shall not extend more than six inches outside of a building's wall surface and shall not exceed 500 square feet in area for any one premises.
- (2) Projected signs fastened to, suspended from or supported by structures shall not exceed

100 square feet in area for any one premises; shall not extend more than six feet into any required yard; shall not extend more than three feet into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean center-line street grade; shall not be less than 15 feet above a driveway or any alley; and shall have a ten-foot clearance above any public right-of-way sidewalk.

- (3) Ground signs shall not exceed 20 feet in height above the mean center-line street grade, shall meet all yard requirements for the district in which they are located, and shall not exceed 100 square feet on all sides for any one premises.
 - (4) Roof signs shall not exceed 10 feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located, and shall not exceed 300 square feet on all sides for any one premises.
 - (5) Combinations of any of the above signs shall meet all the requirements for the individual sign.
- C. Signs adjacent to residential district. No sign shall be erected closer than 50 feet to any residential district.
- D. Signs not to resemble or interfere with traffic control devices. Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signal, or devices. No sign shall be erected, relocated, or maintained so as to prevent fee ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.
- E. Nonconforming signs. A sign lawfully existing at the time of the adoption or amendment of this chapter may be continued although the use, size, or location does not conform to the provisions of this chapter. Such sign shall be deemed a nonconforming use or structure and may not be extended, restored or rebuilt without conforming to all of the requirements of this article.
- F. Unsafe or abandoned signs. All on-premises or off-premises signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six months or when in the judgment of the Village Administrator such sign is so old, dilapidated, unsightly or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Village Administrator may remove the sign at the cost of the owner, following adequate written notice. The owner may appeal the Village Administrator's decision to the Board of Appeals.
- G. Violations. All signs constructed or maintained in violation of any of the provisions of this

article are hereby declared public nuisances with the meaning of this Code. In addition to the penalty provisions for violation of this chapter, the Building Inspector may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IX, Signs and Billboards / § 185-62. Billboards.

§ 185-62. Billboards.

Billboards, except informational signs as before, herein and after defined, are prohibited. It shall be unlawful for any person to erect, repair, alter or relocate or maintain within the Village any billboard as defined in this chapter.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE IX, Signs and Billboards / § 185-63. Informational signs.

§ 185-63. Informational signs.

- A. Informational signs are singular unit signs that accommodate multiple plaques giving direction to individual local retail businesses.
- B. A limit of two upright standards are to be a maximum of 10 feet in height and designed to affix plaques measuring a maximum of eight inches by 72 inches wide. An additional 24 inches is allowed, at the top of the upright standards, for general sign graphics.
- C. All designs, graphics and colors are subject to review by the Plan Commission for a conditional use permit recommendation to the Village Board for approval.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X, Administration

ARTICLE X, Administration

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X, Administration / § 185-64. General administration. EN

§ 185-64. General administration. EN(178)

This chapter contemplates an administrative and enforcement officer titled the "Village Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and the Zoning Map and amending the text of this chapter, require review and recommendations by the Plan Commission.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-65. Village Administrator.**

§ 185-65. Village Administrator.

The duty of the Village Administrator shall be to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The Village Administrator shall further:

- A. Maintain records of all permits issued, inspections made, work approved and other official actions.
- B. Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
- C. Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- D. Inspect all structures, lands and waters as often as necessary to assure compliance with this chapter.
- E. Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises, and report uncorrected violations to the Village Board in a manner specified by it.
- F. Prohibit the use or building of any structure, land or water until he has inspected and approved such use or building.
- G. Request assistance and cooperation from any law enforcement agency and the Village Attorney as deemed necessary.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,**

Administration / § 185-66. Building Inspector. EN

§ 185-66. Building Inspector. EN(179)

The Village Board shall appoint a Building Inspector who shall have the power and duty to enforce the provisions of this chapter and all other ordinances, laws and orders of the State of Wisconsin which relate to building construction and plumbing and electrical installations, and for these purposes he shall have the right at all reasonable times to enter buildings and premises. With the consent of the Village Board he may appoint one or more Village employees or officials as Deputy Building Inspectors and may delegate to them the above-mentioned powers and duties, but such appointment shall not carry with it any increase in salary or wages.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-67. Role of specific officials in zoning administration.**

§ 185-67. Role of specific officials in zoning administration.

- A. The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this chapter, its functions are primarily recommendatory to the Village Board pursuant to guidelines set forth in this chapter as to various matters, and always being mindful of the intent and purposes of this chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.
- B. The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission and the holding of public hearings by said Board, has ultimate authority to grant permitted conditional uses and planned unit development conditional uses, make changes and amendments in zoning districts, the Zoning Map and Supplementary Floodland Zoning Map, and to amend the text of this chapter. The Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this article and other provisions therefor elsewhere in this chapter.
- C. The Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this chapter. See Article XII of this chapter for detail provisions.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-68. Zoning, building or land use permit. EN**

§ 185-68. Zoning, building or land use permit. EN(180)

- A. Zoning, building or land use permit required. No new structure, new use of land, water or air, or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered which exceeds the amounts provided in the Village's Fee Schedule without a zoning, building or land use permit. EN(181)
- B. Applications for a zoning, building or land use permit shall be made to the Village Administrator and shall include the following where pertinent and necessary for proper review:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
 - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Village Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restriction; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
 - (4) Additional information as may be required by the Village Administrator or the Plan Commission (if involved).
- C. Action. A zoning, building or land use permit shall be granted or denied in writing by the Village Administrator within 30 days of application, and the applicant shall post such permit in a conspicuous place at the site.
- D. The permit shall expire within six months unless substantial work has commenced, or within two years after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration the applicant shall reapply for a zoning,

building or land use permit before commencing work on the structure.

- E. A permit issued in conflict with the provisions of this chapter shall be null and void.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-69. Building, plumbing and electrical work. EN**

§ 185-69. Building, plumbing and electrical work. EN(182)

- A. General permit requirement. No building, plumbing or electrical work shall be performed in the Village of Merrimac unless a permit therefor is obtained as required in the provisions of this chapter.
- B. Payment of fees. All fees shall be paid to the Village Administrator and his receipt showing that the fees prescribed have been paid presented to the Building Inspector before the Inspector shall issue to the owner, or his agent, a building, electrical or plumbing permit.
- C. Permit lapses. A building, electrical or plumbing permit shall lapse and be void unless operations under the permit are commenced within two years from the date of issuance thereof.
- D. Revocation. If the Building Inspector shall find at any time that any ordinances, laws, orders, plans and specifications are not being complied with, and that the holder of the permit refuses to conform after a written warning or instruction has been issued to him, he shall revoke the building, electrical or plumbing permit by written notice posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, excepting such work as the Building Inspector may order to be done as a condition precedent to the reissuance of the permit, or as he may require for the preservation of human life and safety of property.
- E. Report of violations. It shall be the duty of all Village staff to report at once to the Village Administrator any building, electrical or plumbing work which is being carried on without a permit as required by this chapter.
- F. Records. The Village Administrator shall keep a record of all permits, fees and inspections and shall make an annual report thereon to the Village Board. EN(183)

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-70. Site plan approval.**

§ 185-70. Site plan approval.

All applications for building permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in residential districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this section.

- A. Application. The applicant for a building permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Village Administrator or the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this chapter.
- B. Administration. The Village Administrator shall make a preliminary review of the application and plans and may refer them, along with a report of his findings, to the Plan Commission within 10 days if the application does not meet the requirements of this chapter. The Plan Commission shall review the application and may refer the application and plans to one or more expert consultants selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this chapter. Within 30 days of its receipt of the application, the Commission shall recommend to the Village Board to issue or refuse a zoning permit.
- C. Requirements: In acting on any site plan, the Village Administrator shall consider the following:
 - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets, the arrangement and improvement of interior roadways, and the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities, and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this section.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-71. Effect on municipal services.**

§ 185-71. Effect on municipal services.

Before granting any site approval, the Village Administrator may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Plan Commission, the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE X,
Administration / § 185-72. Violations and penalties.**

§ 185-72. Violations and penalties.

- A. Violations. It shall be unlawful to use or improve any structure or land or to use water or air in violation of any of the provisions of this chapter. In case of any violation, the Village Board, the Village Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this chapter or cause a structure to be vacated or removed.
- B. Remedial action. Whenever an order of the Village Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident, agent or occupant of the premises, the Village Board, the Village Administrator, or the Village Attorney may institute appropriate legal action or proceedings.
- C. Penalties. Any person, firm or corporation who or which fails to comply with the provisions of this chapter or any order of the Village Administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a penalty as provided in Chapter 1, § 1-4 of this Code and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XI,
Amendments**

ARTICLE XI, Amendments

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XI,
Amendments / § 185-73. Authority.****§ 185-73. Authority.**

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board may, by ordinance, change the district boundaries established by this chapter and the Zoning Map incorporated herein or amend, change or supplement the text of the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XI,
Amendments / § 185-74. Initiation of changes or amendments.****§ 185-74. Initiation of changes or amendments.**

The Village Board, the Village Plan Commission, the Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this chapter and to the district boundaries hereby established or by amendments hereto in the accompanying Zoning Map made a part of this chapter.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XI,
Amendments / § 185-75. Procedure for changes or amendments.****§ 185-75. Procedure for changes or amendments.**

- A. Petitions for any change to the district boundaries and map(s) or amendments to the text of regulations shall be addressed to the Village Board and shall be filed with the Village Administrator, describe the premises to be rezoned or the portions of the text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if the petition is for change of district boundaries:
- (1) Plot plan, drawn to a scale of one inch equals 100 feet, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning

districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.

- (2) Owners' names and addresses of all properties lying within 100 feet of the area proposed to be rezoned.
- (3) Additional information as may be required by the Plan Commission or Village Board.

B. Recommendations. The Village Board or the Village Administrator shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and Zoning Map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may, on occasion, of its own volition, conduct its own public hearing on proposed amendment(s).

C. Hearings.

- (1) The Village Board, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Ch. 985, Wis. Stats., or by posting in four public places. At least 10 days prior, written notice shall also be given to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.
- (2) The Village Board may delegate to the Plan Commission the responsibility to hold public hearings as required under this section.

D. Board's action. Following such hearing and after consideration of the Plan Commission's recommendations, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XI,
Amendments / § 185-76. Protest.**

§ 185-76. Protest.

A. In the event of a protest against amendment to the Zoning Map, duly signed and acknowledged by the owners of 20% or more of the land immediately adjacent extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board

membership.

- B. In the event of protest against amendment to the text of the regulations of this chapter, duly signed and acknowledged by 20% of the number of persons casting ballots in the last general election, it shall cause a three-fourths vote of the full Village Board membership to adopt such amendment.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XII, Appeals**

ARTICLE XII, Appeals

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XII, Appeals
/ § 185-77. General provisions.**

§ 185-77. General provisions.

- A. Scope of appeals. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within 30 days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeal upon which the action appealed from was taken.
- B. Stay of proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- C. Powers of Board of Appeals. In addition to these powers enumerated elsewhere in this Code, the Board of Appeals shall have the following powers:
 - (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Village Administrator and/or

Building Inspector.

- (2) Variances. To hear and grant appeals for variances in accordance with § 185-80.^{EN(184)}
- (3) Interpretations. To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- (4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided that no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board of Appeals permits such a substitution, the use may not thereafter be changed without application.
- (5) Unclassified uses. To hear and grant applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
- (6) Temporary uses. To hear and grant applications for temporary uses in any district, provided that such uses are of temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.
- (7) Permits. The Board of Appeals may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XII, Appeals
/ § 185-78. Hearings.**

§ 185-78. Hearings.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper or posted in four public places not less than seven days prior thereto, and cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five days prior to the hearing to the fee owners of record of all land within 100 feet of any part of the subject building or premises involved in the appeal.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /

**PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XII, Appeals
/ § 185-79. Decisions.**

§ 185-79. Decisions.

- A. Time frame. The Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision with finding to the appellant or applicant and the Village Administrator.
- B. Conditions. Conditions may be placed upon any building permit ordered or authorized by this Board.
- C. Validity. Variances granted by the Board shall expire within six months of date of issue unless substantial work has commenced pursuant to such grant.^{EN(185)}

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XII, Appeals
/ § 185-80. Variances.**

§ 185-80. Variances.

- A. Purpose.
 - (1) A request for variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this chapter would cause undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 - (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area, or permit standards lower than those required by state law.
 - (3) For the purposes of this section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those

applicable to most or all property in the same zoning district.

- B. Application for variance: The application for variance shall be filed with the Village Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
- (1) Name and address of the applicant and all abutting and opposite property owners of record.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (3) Address and description of the property.
 - (4) A site plan showing an accurate depiction of the property.
 - (5) Additional information required by the Plan Commission, Village Engineer, Board of Appeals, or Village Administrator.
- C. Public hearing of application. The Board of Appeals shall conduct at least one public hearing on the proposed variation. Notice so such hearing shall be given not more than 30 days and not less than 10 days before the hearing by posting in at least three public places within the Village, and due notice shall be given to the parties in interest, the Village Administrator, and the Plan Commission. At the hearing the appellant or applicant may appear in person, by agent, or by attorney. The Board shall thereafter issue its decision within 30 days after the final hearing and shall transmit a written copy of the decision to the appellant or applicant, Village Administrator and Plan Commission.
- D. Action of the Board of Appeals. For the Board to grant a variance it must find that:
- (1) Denial of a variance may result in hardship to the property owner due to physiographical considerations. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (2) The conditions upon which a petition for variance is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.

- (4) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variation will not undermine the spirit and general and specific purposes of this chapter.
- E. Conditions. 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.
- F. Fees. The fees for all appeals shall be established by resolution of the Village Board.^{EN(186)}

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XII, Appeals / § 185-81. Review by court of record.

§ 185-81. Review by court of record.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality, Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board.

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XIII, Definitions

ARTICLE XIII, Definitions

CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 / PART III LAND USE LEGISLATION / Chapter 185, ZONING / ARTICLE XIII, Definitions / § 185-82. Definitions and word usage. EN

§ 185-82. Definitions and word usage. ^{EN(187)}

For the purposes of this chapter, the following definitions shall be used, unless a different definition is specifically provided for within this section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The

word "shall" is mandatory and not permissive.

ABUTTING -- Having a common property line or district line.

ACCESSORY USE OR STRUCTURE -- A use or detached structure subordinate to the principal use of a structure, parcel of land, or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

ACRE, GROSS -- The net area of land devoted to the land use plus the proportionate area devoted to all supporting land uses, including public streets, public lands or unusable lands, and school sites, contained with 43,560 square feet.

ACRE, NET -- The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained with 43,560 square feet.

ALLEY -- A public way not more than 24 feet wide which affords only a secondary means of access to abutting property.

APARTMENT -- A room or suite of rooms in a multiple-family structure that is arranged, designed, used, or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

ARCHITECTURAL OR AESTHETIC FENCE -- A fence constructed to enhance the appearance of the structure or the landscape.

A ZONES -- Areas of potential flooding shown on the Village's Flood Hazard Boundary Map which would be inundated by the regional flood as defined herein. These zones may be numbered AO or A1 to A99 or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

BASEMENT -- That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations. Space partly below grade which is designed and finished as habitable space is not defined as basement space.

BED AND BREAKFAST - A dwelling in which four or fewer rooms are rented for a periods of less than three weeks, is the owner's personal residence, is occupied by the owner at the time of rental and while renters are on the premises, and in which the only meal served to renters is breakfast

BILLBOARD -- A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.

BLOCK -- A tract of land bounded by streets or by a combination of streets and public parks, or other recognized line of demarcation.

BOARDINGHOUSE -- A building other than a hotel or restaurant where meals or lodging is regularly furnished by prearrangement for compensation for three or more persons not members of a family but not exceeding 12 persons and not open to customers for periods of less than 30 days.

BOUNDARY FENCE -- A fence which placed adjacent to the property lines of adjacent properties.

BUILDABLE LOT AREA -- The portion of a lot remaining after required yards have been provided.

BUILDING -- Any structure, including decks, intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by

unpierced walls extending from the ground up, each part shall be deemed a separate building.

BUILDING, DETACHED -- A building surrounded by open space on the same lot.

BUILDING, HEIGHT OF -- The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the decline of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

BUILDING PERMIT -- This term is synonymous with a zoning permit. See "zoning permit."

BUILDING, PRINCIPAL -- A building in which the principal use of the lot on which it is located is conducted.

BUILDING SETBACK LINE -- A line parallel to the lot line at a distance parallel to it regulated by the yard requirements set up in this chapter.

BUSINESS -- An occupation, employment, or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are ordered.

CHANNEL -- Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

COMMERCIAL OCCUPANCY - Occupancy of a dwelling unit for a period of less than 30 consecutive days in exchange for the payment of money or other consideration to or for the benefit of the owner of the dwelling unit.

COMMUNITY LIVING ARRANGEMENT -- As defined in § 46.03(22), Wis. Stats. The establishment of a community living arrangement shall be in conformance with applicable sections of the Wisconsin State Statutes, including §§ 46.03(22), 59.69(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code

CONDITIONAL USES -- Uses of a special nature as to make impractical their predetermination a principal use in a district.

CORNER LOT -- On corner lots, the setback shall be measured from the street. Said corner lots shall consist of a parcel of property abutting on two or more streets at their intersection, provided that the interior angle of such intersection is less than 135°.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or filling operations, or disposition of materials.

DISTRICT, BASIC -- A part or parts of the Village for which the regulations of this chapter governing the use and location of land and building are uniform.

DISTRICT, OVERLAY -- Overlay districts, also referred to herein as "regulatory areas," provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirement of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

DWELLING -- A building or one or more portions of a building containing one or more dwelling

units.

DWELLING, ATTACHED - A dwelling joined to another dwelling at one or more sides by a shared wall or walls.

DWELLING, DETACHED - A dwelling entirely surrounded by open space on the same lot. -- A building or one or more portions of a building containing one or more dwelling units.

DWELLING, UNIT - A room or group of rooms, providing or intended to provide living quarters for not more than one family.

DWELLING, SINGLE-FAMILY -- A dwelling containing one dwelling unit.

DWELLING, TWO-FAMILY -- A dwelling containing two dwelling units.

EQUAL DEGREE OF HYDRAULIC ENCROACHMENT -- The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.

ESSENTIAL SERVICES -- Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, stream water, sanitary sewerage, stream water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

FAMILY -- An individual or two or more persons, each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four persons not so related, maintaining a common household in which bathrooms, kitchen facilities and living quarters are shared.

FENCE -- An enclosed barrier consisting of vegetation, wood, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly materials that would constitute a nuisance. For the purpose of this section, the term "fence" shall include plantings, such as hedges and shrubbery.

FLOOD -- A temporary rise in stream flow or stage in lake level that results in water overtopping the banks and inundating areas adjacent to the stream channel or lake bed.

FLOODLANDS -- All lands contained in the regional flood or one-hundred-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district, and floodplain fringe overlay district.

FLOODPLAIN FRINGE -- Those floodlands, outside the floodway, subject to inundation by the one-hundred-year recurrence interval flood. For the purpose of this chapter, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.

FLOOD PROFILE -- A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

FLOOD PROTECTION ELEVATION -- A point two feet above the water surface elevation of the one-hundred-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action, and obstructions of bridge openings.

FLOOD STAGE -- The elevation of the floodwater surface above an officially established datum plane, which is mean sea level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.

FLOODWAY -- A designated portion of the one-hundred-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures, and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

FLOOR AREA, BUSINESS AND MANUFACTURING BUILDINGS -- For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, "floor area," for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

FRONTAGE -- All the property abutting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

GARAGE, PRIVATE -- A detached accessory building or portion of the principal building designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.

GROUP FOSTER HOME -- Any facility operated by person required to be licensed by the State of Wisconsin under § 48.62, Wis. Stats., for the care and maintenance of five to eight foster children.

HEDGE -- A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.

HOME OCCUPATION -- Any business or profession carried on only by a member of the family residing on the premises, carried on wholly within the principal building or accessory building thereto, in connection with which there are no signs or exterior display or storage other than a sign permitted by this chapter, and no activity that will indicate from the exterior that the building(s) is being used in whole or in part for any purpose other than that of a dwelling. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as are produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one nonresident employee. No business, such as a shop, store or child nursery, shall be conducted upon the premises. No material or equipment shall be stored outside the confines of the home. No

mechanical equipment may be used which creates a disturbance such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one horsepower each and not exceeding five horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles, and motor-driven cycles other than those licensed and owned by the occupants of a home in a residential area is strictly prohibited. For the purpose of this definition, the definitions of the above-mentioned vehicles shall be as set forth in Ch. 340, Wis. Stats., the Vehicle Code. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this definition whether or not such repairing is done in return for remuneration.

HOTEL -- A building in which lodging, with or without meals, is offered to tourists or transients for compensation, with no cooking facilities in any individual room or apartment.

INFORMATIONAL SIGN -- A singular directory sign providing the business name and direction of multiple area retail businesses.

LOADING AREA -- A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

LODGING HOUSE -- A building in which three or less paying guests are provided with lodging on a monthly or longer term basis.

LOT -- A parcel of land having frontage on public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, and other open space provisions of this chapter as pertaining to the district wherein located.

LOT COVERAGE (RESIDENTIAL) -- The area of a lot occupied by the principal building or buildings and accessory building.

LOT COVERAGE (EXCEPT RESIDENTIAL) -- The area of a lot occupied by the principal building or buildings and accessory buildings, including any driveways, parking areas, loading areas, storage areas, and walkways.

LOT, INTERIOR -- A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

LOT LINE -- A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way.

LOT LINES AND AREA -- The peripheral boundaries of a parcel.

LOT, SUBSTANDARD -- A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking area, or other open space provisions of this chapter as pertaining to the district wherein located.

LOT, THROUGH -- A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

LOT WIDTH -- The horizontal distance between the side lot lines measured at the building setback line of land and the total area lying within such boundaries.

MANUFACTURED HOME -- A structure certified and labeled as a manufactured home under 42 U.S.C. §§ 5401 to 5426 which, when placed on the site, is set on an enclosed foundation in accordance with § 70.043(1), Wis. Stats., and Ch. Comm 27, Wis. Adm. Code, and is set on and attached to a permanent foundation system as set forth by the Uniform Dwelling Code, is installed in accordance with the manufacturer's instructions, and is properly connected to utilities.

MOBILE HOME -- Any structure originally designed to be capable of transportation by any motor vehicle upon a public highway which is intended for occupancy as a year-around residence and which does not require substantial on-site fabrication. For the purpose of definition, mobile/manufactured homes are constructed and certified to the Federal Housing and Urban Development (HUD) standards. For the purpose of identification, a mobile/manufactured home is identified with a red metal rectangular label affixed to the rear of each full or half unit. This identifies the mobile/manufactured home which has been constructed in accordance with the HUD manufactured home standards. Reference the Uniform Dwelling Code, § Comm 20.05(9).

MOBILE HOME LOT -- A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

MOBILE HOME PARK -- A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

NONCONFORMING USE OR STRUCTURE -- Any structure, use of land, use of land and structure in combination, or characteristic of use (such as area requirement or lot size) which was existing at the time of the effective date of this chapter or amendments thereto and which is not in conformance with this chapter. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall not be considered a nonconforming use but shall be considered nonconforming with respect to those characteristics.^{EN(192)}

PARKING LOT -- A structure or premises containing five or more parking spaces open to the public.

PARKING SPACE -- A graded and surfaced area of not less than 180 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PARTIES IN INTEREST -- Includes all abutting property owners, all property owners within 100 feet, and all property owners of opposite frontages.

PROFESSIONAL OFFICE -- The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician, photographer or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation; not more than 25% of the floor area of only one story of a dwelling unit shall be occupied by such office and only one unlighted nameplate, not exceeding one square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.

PROTECTIVE FENCE -- A fence constructed to enclose a hazard to the public health, safety and

welfare.

PUBLIC AIRPORT -- Any airport which complies with the definition contained in § 114.002(7), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

REAR YARD -- A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

RECREATIONAL VEHICLE -- Any of the following:

- A. **TRAVEL TRAILER** -- A vehicular, portable structure built on a chassis and on wheels that is between 10 and 36 feet long, including the hitch, and eight feet or less in width, designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called fifth-wheel units.
- B. **PICKUP COACH** -- A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
- C. **MOTOR HOME** -- A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.
- D. **CAMPING TRAILER** -- A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
- E. **CHASSIS MOUNTS, MOTOR HOMES AND MINI MOTOR HOMES** -- Recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated therefrom.
- F. **CONVERTED AND CHOPPED VANS** -- Recreational structures which are created by altering or changing an existing auto van to make it a recreation vehicle.
- G. **BOAT** -- Every description of watercraft used or capable of being used as a means of transportation on water.
- H. **BOAT OR SNOWMOBILE TRAILER** -- A vehicle on which a boat or snowmobile may be transported and which is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this chapter, is termed an unmounted boat or snowmobile.

REGIONAL FLOOD -- A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year, there is one-percent chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent chance of occurrence.

RETAIL -- The sale of goods or merchandise in small quantities to the consumer.

SETBACK -- The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed 24 inches. Any overhang of the cornice in excess of 24 inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over 24 inches. Uncovered steps shall not be included in measuring the setback.

SHARED BOATHOUSE – A single structure located partly on one lot or parcel and partly on an adjacent lot or parcel, designed and used as a boathouse.

SIDE YARD -- A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

SIGN -- Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, by which anything is made known and which is used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

STORY -- That portion of a building included between the surface of any floor and space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof. A basement having 1/2 or more of its height above grade shall be deemed a story for purposes of height regulation.

STORY, HALF -- That portion of a building under a gable, hip, or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more than 4 1/2 feet above the finished floor of such story. In the case of one-family dwellings, two-family dwellings, and multifamily dwellings less than three stories in height, a half story in a sloping roof shall not be counted as a story for the purposes of this chapter.

STREET -- Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is 21 feet or more in width.

STREET YARD -- A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two street.

STRUCTURAL ALTERATIONS -- Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

STRUCTURE -- Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

TEMPORARY STRUCTURE -- A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

TOURIST ROOMING HOUSE - A dwelling unit that, during any twelve consecutive months, is occupied by one family for not less than six months, and is used for commercial occupancy during other parts of the same twelve-month period.

USE -- The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

USE, PRINCIPAL -- The main use of land or building as distinguished from subordinate or accessory use.

UTILITIES -- Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards, and power plants.

VARIANCE -- A situation where strict application of this chapter would result in a practical difficulty or unnecessary hardship; an exception may be granted by the Board of Appeals.

VISION CLEARANCE -- An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

YARD -- An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation and unroofed decks or patios. The street and rear yards extend the full width of the lot.

ZERO LOT LINE -- The concept whereby two respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero spacing between said units.

ZONING PERMIT -- A permit issued by the Village Administrator to certify that lands, structures, air and waters subject to this chapter are or shall be used in accordance with the provisions of said chapter. This term is synonymous with "building permit."

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
DERIVATION TABLE**

DERIVATION TABLE

Derivation Table of Village Code to 2006 Code

Chapter/Title From Village Code	Location in 2006 Code
Ch. 1, Records	Ch. 29
Ch. 2, Village Board Meetings	Ch. 35

Ch. 3, Officials	
§§ 1, 2 and 7	Ch. 21
§§ 3, 4, 5 and 6	Ch. 9
Ch. 4, Traffic Code	
§§ 4.01 to 4.04, 4.06 and 4.07	Ch. 144
§ 4.05	Ch. 53

Chapter/Title From Village Code	Location in 2006 Code
§ 4.08	REP
Ch. 6, Public Works	
§§ 6.01, 6.02, 6.04, 6.05 and 6.06	Ch. 129
§ 6.03	REP
§ 6.07	NLP; see Ch. 108
Ch. 8, Building Regulations	
§§ 8.01 and 8.02	REP; see now Ch. 185
§§ 8.03 to 8.05 and 8.07	Ch. 161
§ 8.06	Ch. 165
Ch. 9, Planning and Zoning	NCM (temporary measure)
Ch. 10, Health and Sanitation	
§ 10.01	Ch. 9
§§ 10.02	REP
§§ 10.03, 10.07 to 10.10 and 10.12	Ch. 74
§§ 10.04, 10.06, 10.11 and 10.13	REP
§ 10.05	Ch. 47, Art. I
§ 10.14	Ch. 123
§ 10.15	Ch. 47, Art. I; Ch. 74

Chapter/Title From Village Code	Location in 2006 Code
Ch. 11, Licenses and Permits	
§ 11.01	Ch. 83
§ 11.02	NLP; see Ch. 136
§ 11.03	Ch. 65
§ 11.04	Ch. 47, Art. II
§ 11.05	Ch. 91
Ch. 12, Orderly Conduct	
§§ 12.01 to 12.05	Ch. 102
§ 12.06	REP
Ch. 13, Nuisances	Ch. 97
Ch. 14, Finance	
§§ 14.01 to 14.04	Ch. 15
§ 14.05	Ch. 29
Ch. 15, General Provisions	
§§ 15.01, 15.02(1), 15.03, 15.04	Ch. 1, Art. I
§§ 15.02(2) and 15.05 to 15.09	NLP; see Ch. 1, Art. II
Ch. 16, Utility Commission	Ch. 9
Ch. 17, Sewer Utility	Ch. 116
Ch. 18, Sewer System Bonds	NCM

Chapter/Title From Village Code	Location in 2006 Code
Ch. 19, Water Utility	Ch. 152
Ch. 20, Cable Television	Superseded 11-13-2001; see Ch. 60
Ch. 21, Waterworks Bonds	NCM
Ch. 22, Personal Property Tax	Ch. 15
Ch. 23, Special Assessments	Ch. 5
Ch. 24, Gas Franchise	REP
Ch. 25, Sewer Utility	See Ch. 116
Zoning Ordinance	Ch. 185
Subdivision and Platting Ordinance	Ch. 176

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
DISPOSITION LIST**

DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Merrimac adopted since

the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion.
[Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]

**CODE OF THE VILLAGE OF MERRIMAC, WISCONSIN, v1 Updated 06-15-2006 /
DISPOSITION LIST / § DL-1. Disposition of legislation.**

§ DL-1. Disposition of legislation.

Ordinance Number	Adoption Date	Subject	Disposition
2006-01	4-12-2006	Adoption of Code	Ch. 1, Art. II
2006-02	4-12-2006	Land division and condominiums	Ch. 176

Endnotes

1 (Popup - Popup)

Editor's Note: In accordance with § 1-18C, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Ch. 1, General Provisions, Art. II. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 4-12-2006 by Ord. No. 2006-01." Schedule A, which contains a complete description of all changes, is on file in the Village offices.

2 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

5 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

6 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

7 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

8 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

9 (Popup - Popup)

Editor's Note: Original § 14.01(2), Rates stamped on receipts, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

10 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

11 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

12 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

13 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

14 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

15 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

16 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Original § 07.03.00, Bond refused, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

17 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

18 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

19 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

20 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

21 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

22 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

23 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

24 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Original § 05.03.00, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

25 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

26 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

27 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

28 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

29 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

30 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

31 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

32 (Popup - Popup)

Editor's Note: See Ch. 185, Zoning.

33 (Popup - Popup)

Editor's Note: See Ch. 185, Zoning.

34 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

35 (Popup - Popup)

Editor's Note: See Ch. 185, Zoning.

36 (Popup - Popup)

Editor's Note: See also Ch. 185, Zoning.

37 (Popup - Popup)

Editor's Note: See Ch. 185, Zoning.

38 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

39 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

40 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator. Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

41 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

42 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

43 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

44 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

45 (Popup - Popup)

Editor's Note: See §§ 19.81 to 19.89, Wis. Stats.

46 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

47 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

48 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

49 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

50 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

51 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

52 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

53 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

54 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

55 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

56 (Popup - Popup)

Editor's Note: See also Ch. 15, § 15-6, Licenses to be withheld for nonpayment of municipal charges.

57 (Popup - Popup)

Editor's Note: See Ch. 144, Vehicles and Traffic.

58 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

59 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

60 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

61 (Popup - Popup)

Editor's Note: See Ch. 83, Intoxicating Liquor and Fermented Malt Beverages.

62 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

63 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

64 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

65 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

66 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

67 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

68 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

69 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

70 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

71 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator. Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

72 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

73 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

74 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

75 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

76 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

77 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

78 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

79 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

80 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

81 (Popup - Popup)

Editor's Note: Original § 10.14(7), Exceptions, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

82 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

83 (Popup - Popup)

Editor's Note: Original § 10.14(9), Penalties, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

84 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

85 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

86 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

87 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

88 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

89 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

90 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

91 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

92 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

93 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

94 (Popup - Popup)

Editor's Note: Original § 4.02(4), Sidewalk snow shoveling ordinance, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now Ch. 129, Streets and Sidewalks.

95 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

96 (Popup - Popup)

Editor's Note: Original § 4.04(3), which immediately followed this section and listed arterial stop intersections, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

97 (Popup - Popup)

Editor's Note: Original §§ 2 and 3, which immediately followed this section and listed certain lots and provided for this article to be filed with the Public Service Commission, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

98 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

99 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

100 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

101 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

102 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

103 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

104 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

105 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

106 (Popup - Popup)

Editor's Note: The Village Fee Schedule is on file at the office of the Village Administrator.

107 (Popup - Popup)

Editor's Note: Original § 14, Meter tests on complaint, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

108 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

109 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

110 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

111 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

112 (Popup - Popup)

Editor's Note: Original § 39, Purity of supply not to be impaired by cross-connections, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General

Provisions, Art. II).

113 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

114 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

115 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

116 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

117 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

118 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

119 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

120 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

121 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

122 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

123 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

124 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

125 (Popup - Popup)

Editor's Note: This ordinance also repealed former Ch. 176, Subdivision of Land, adopted as Ch. 10 of the prior Code, as amended.

126 (Popup - Popup)

Editor's Note: Appendix A is included at the end of this chapter.

127 (Popup - Popup)

Editor's Note: Original § 01.05.00, One principal building per lot, and § 01.05.01, Lots abutting more restrictive district, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 185-8B and D.

128 (Popup - Popup)

Editor's Note: Original § 03.01.00, Site suitability, which immediately preceded this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now Subsection E of this section.

129 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

130 (Popup - Popup)

Editor's Note: Original § 03.10.00, Property Maintenance, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now Ch. 108, Property Maintenance.

131 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

132 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

133 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

134 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

135 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

136 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

137 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

138 (Popup - Popup)

Editor's Note: Original § 04.05.11, which immediately followed this section and dealt with the Waterwood West plat, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

139 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

140 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

141 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

142 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

143 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

144 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

145 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

146 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

147 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

148 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

149 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

150 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

151 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

152 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

153 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

154 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

155 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

156 (Popup - Popup)

Editor's Note: Original § 09.03.18, which immediately followed this subsection and provided for specialized automobile repair, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

157 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

158 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

159 (Popup - Popup)

Editor's Note: Original § 11.03.06, which immediately followed this subsection and provided for transmitting and receiving towers, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

160 (Popup - Popup)

Editor's Note: See Ch. 42, Adult Entertainment Establishments. Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

161 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

162 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

163 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

164 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

165 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

166 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

167 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

168 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

169 (Popup - Popup)

Editor's Note: See Ch. 97, Nuisances.

170 (Popup - Popup)

Editor's Note: Original § 10.00.00, Burning, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

171 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

172 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

173 (Popup - Popup)

Editor's Note: See also Ch. 91, Mobile Homes and Mobile Home Parks.

174 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

175 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

176 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

177 (Popup - Popup)

Editor's Note: See Ch. 161, Building Construction and Fire Prevention.

178 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

179 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

180 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

181 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

182 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See also Ch. 161, Building Construction and Fire Prevention.

183 (Popup - Popup)

Editor's Note: Original §§ 06.00.00, 07.00.00 and 08.00.00, regarding certificates of compliance, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

184 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

185 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

186 (Popup - Popup)

Editor's Note: The Fee Schedule is on file at the office of the Village Administrator.

187 (Popup - Popup)

Editor's Note: The following definitions were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II): awning; boat; boat or snowmobile trailer; camping trailer; chassis mounts; conservation standards; controlled access arterial street; dwelling, efficiency; farmstead; flood insurance study; floodproofing; foster family home; garage, public; lot, corner; minor structure; mobil home; mobile home subdivision; motor homes and mini motor homes; converted and chopped vans; pickup coach; travel trailer; and use, accessory.

188 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

189 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

190 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

191 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

192 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

193 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Throughout this chapter, references to "front yard" were amended to "street yard" at time of adoption of

Code (see Ch. 1, General Provisions, Art. II).