

TITLE 13

Zoning

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Zoning Code

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Article A: Introduction

Sec. 13-1-1 Authority.

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

State Law Reference: Sec. 62.23(7), Wis. Stats.

Sec. 13-1-2 Title.

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

Sec. 13-1-3 General Purpose.

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

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

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

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

- (f) **Regulate parking**, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) **Enhance public 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 of Crivitz;
- (i) **Preserve and protect the beauty** of the Village of Crivitz;
- (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 municipal, county, watershed and regional** comprehensive plans or components of such plans adopted by, or in effect in, the Village of Crivitz;
- (r) **Provide for the administration and enforcement** of this Chapter; and to provide penalties for the violation of this Chapter.

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

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

Sec. 13-1-6 Interpretation; Standard Industrial Classifications.

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

- (b) Uses allowed in Commercial and Industrial Districts may be cross-referenced with the Standard Industrial Classification when appropriate. The SIC number is shown in [].

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

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (c) The Village of Crivitz 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, or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

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

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

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

Article B: General Provisions

Sec. 13-1-20 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 of Crivitz. The provisions of this Chapter shall be held to be the minimum requirements for carrying out the intent and purpose of this Chapter.
- (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 zoning 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) **Relationship with Other Laws.** Where the conditions imposed by any part 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 provisions of this Chapter or any other laws, ordinances, resolutions, rules or regulations of any kind, the regulations which are more restrictive (or impose higher standards or requirements) shall be enforced.
- (e) **Legal Remedies.** No provision of this Chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land, buildings or other structures as a nuisance under the appropriate state laws.

Sec. 13-1-21 Use Regulations.

The following uses and their essential services may be allowed in any zoning district:

- (a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.
- (b) **Accessory Uses.** Accessory uses and structures as specified under this Chapter are permitted but not until their principal structure is present or under construction.
- (c) **Conditional Uses.**
 - (1) **Approved Procedures.** Conditional uses and their accessory conditional uses are considered as special uses requiring, for their authorization, review, public hearing and approval in accordance with Article E of this Chapter excepting those existent at time of original adoption of the Zoning Code.

- (2) **Permitted Use Terminates Conditional Use.** Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval in accordance with Article E of this Chapter.
 - (3) **Limits on Conditional Use Duration.** Conditional uses authorized by the Village Board may be established for a period of time to a time certain or until a future happening or event at which the same shall terminate, such as a change of ownership or occupancy.
 - (4) **Substitution.** 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 Village Board approval and the procedures required in Article E of this Chapter.
 - (5) **Pre-Existing Conditional Uses.** Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of original adoption of this Chapter require no action by the Village Board for them to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
- (d) **Classification of Unlisted Uses.** Any use not specifically listed as a permitted use or a conditional use in the districts established in Article C shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of a question as to the classification of an unlisted use, the question shall be submitted to the Village Board for determination, following a recommendation from the Zoning Administrator and Plan Commission, in accordance with the following procedure:
- (1) **Application.** Application for determination for classification of an unlisted use shall be made in writing to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Village Board to facilitate the determination.
 - (2) **Investigation.** The Village Board shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the Chapter and to recommend its classification.
 - (3) **Determination.** The determination of the Village Board shall be rendered in writing within sixty (60) days from the application and shall include findings supporting the conclusion. The Village Board shall determine if the classification of the unlisted use is a permitted use, conditional use or prohibited use in one (1) or more of the districts established in Article C.
 - (4) **Effective Date of Determination.** At the time of this determination of the classification of the unlisted use by the Village Board, the classification of the unlisted use shall become effective.
 - (5) **Appeals.** The classification determination by the Village Board under this Subsection may be appealed to the Zoning Board of Appeals pursuant to Sections 13-1-260 through 13-1-262.

Sec. 13-1-22 Site Regulations.

- (a) **Minimum Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of thirty (30) feet at the front setback line; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- (b) **Principal Structures.**
 - (1) **One Principal Structure Per Lot.** All residential principal structures shall be located on a legal lot. Except in the case of planned unit developments, not more than one (1) principal building or use and accessory structures permitted by this Chapter, including a private garage, may be located on a lot in any residential district.
 - (2) **Special Exception.** The Village Board may permit as a conditional use pursuant to Article E or a planned unit development under Article D more than one (1) principal structure per lot in any district where unique characteristics exist and more than one (1) such structure is needed for the orderly development of the parcel. Such approval shall not be based upon personal convenience or financial gain alone. Where additional structures are permitted, the Village Board may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** All lots shall abut a public street or Village-approved private road or way which is constructed to applicable Village standards. 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) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board, upon the recommendation of the Plan Commission, 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 the Section, shall, in writing, recite the particular facts upon which it bases its recommendation that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its recommended determination of unsuitability when making its recommendation to the Village Board.
- (e) **Preservation of Topography.** In order to protect the property owner 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 one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the

owner of the abutting property and with the approval of the Village Board, upon the recommendation 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.

- (f) **Setbacks — Decks, Porches, Handicapped Ramps, and Fireplace Chases.** For purposes of this Chapter, handicapped ramps, decks, porches and fireplace chases shall be considered a part of a building or structure for determining setback compliance.
- (g) **Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.
- (h) **Obstruction of Unplatted Lands.** All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land platting.
- (i) **Prohibited Dwelling Units (Accessory Buildings, Recreational Vehicles, Tents, etc.)**
 - (1) Except as provided in Subsection (i)(2) below, no cellar, basement or unfinished home, garage, tent, recreational vehicle, camper, recreational trailer or accessory building shall, at any time, be used as a dwelling unit. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be imposed by the building and housing codes.
 - (2) No recreational vehicle, camper or tent on private property not zoned for campground purposes may be occupied as living quarters with no principal structure present, or seven (7) days on parcels with a principal structure present within a ninety (90) day period. A recreational vehicle, camper or tent on private property not zoned for campground purposes with a principal structure present may be occupied as living quarters for seven (7) days within a ninety (90) day period. Upon request, the Zoning Administrator may extend such occupancy up to twenty-one (21) days. A request to extend such occupancy beyond twenty-one (21) days shall be decided upon by the Village Board. Such occupancy is permissible only with the written permission of the property owner.
- (j) **Temporary Uses.** Temporary 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 Zoning Administrator. The Zoning Administrator may impose conditions on such temporary uses.
- (k) **Screening Regulations.** Any use required by this Chapter to be screened shall meet applicable buffer yard and screening requirements, specifically Section 13-1-25.
- (l) **Yard Reduction or Joint Use.**
 - (1) **Required Area.** 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 area or other space required for a structure or use shall be used for any other structure or use.

- (2) **Joint Use.** No part of any lot, parking area, yard or other space required for a structure or use shall be used for any other structure or use. 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 part of a yard or open space required for another building.
- (m) **Lots Abutting More Restrictive District.** The street yard setbacks in the less restrictive district shall be modified for a distance of not less than thirty (30) 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.
- (n) **Double-Frontage Lots.** Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets be complied with.
- (o) **Area Required for Rubbish Containers.** On all premises on which there will be constructed after the effective date of this Chapter a new structure which will house four (4) or more dwelling units, any existing building converted to four (4) or more dwelling units after such date, any rooming house or other residential structure having four (4) or more occupants, or a new commercial or industrial building, there shall be provided a sufficient area as determined by the Zoning Administrator for screened refuse/recycling collection containers. Such areas shall not be located in the front or street side yard and shall be accessible by motorized vehicles or other motorized refuse collection equipment. Such areas shall not be located in a required off-street parking area and shall be shown on the plot plan submitted at the time of application for a zoning or occupancy permit.

Sec. 13-1-23 Modifications; Height, Area and Setback Exceptions.

- (a) **Height.** The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:
 - (1) **Architectural Structures.** Agricultural structures, such as barns, silos and windmills, shall not exceed in height twice their distance from the nearest lot line.
 - (2) **Special Structures,** such as elevator penthouses, gas tanks, grain elevators, scenery lots, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this Chapter.
 - (3) **Essential Services,** utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
 - (4) **Communication Structures,** such as radio and television transmission and relay towers, aerials and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

- (5) **Public or Semipublic Facilities.** Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, government offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.
- (b) **Yards.** The yard requirements stipulated elsewhere in this Chapter may be modified as follows:
 - (1) **Architectural Projections.** Chimneys, flues, sills, eaves, belt courses, ornaments, etc., may project into any required yard, but such projection shall not exceed two (2) feet.
 - (2) **Essential Services,** utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
 - (3) **Landscaping and Vegetation** are exempt from the yard requirements of this Chapter.
- (c) **Average Building Setbacks.** In Residential and Business Districts, except for corner lots, required setbacks shall be modified in the following cases:
 - (1) **Average Front Yards.** The required front yards may be decreased in any residential or business district to the average of the existing street yards of the abutting principal structures on each side. Where fifty percent (50%) or more of the frontage on a block is occupied by principal structures having setbacks less than that required by this Chapter, setback on each remaining lot shall be determined in accordance with the following rule. The front building line of a proposed structure shall be no nearer the front lot line than a line joining adjacent front corners of the nearest principal structures which are in the same block frontage on either side of the proposed structure. If, on a block frontage, no principal structure exists to one side of a proposed structure, a structure may be assumed to exist on the corner lot which conforms to the minimum setback and side yard width requirements of this Chapter.
 - (2) **Additions.** Additions in the front yard of existing structures shall not project beyond the average of the existing front yards on the abutting lots or parcels.
- (d) **Corner Side Yards.** The required side yard on the street side of corner lots shall be at least fifty percent (50%) greater than the minimum specified for the district.

Sec. 13-1-24 Extension of Utilities Outside Corporate Limits.

Village public utilities will only be extended into and provided to those areas which are within the corporate limits of the Village of Crivitz at the time of the utility extension unless provided otherwise by intergovernmental or other agreement.

Sec. 13-1-25 Parcels Not Served by Public Sewer or Water.

In any location where the Village Board determines that public water service or public sewage service is not in the public interest due to unique factors such as, but not limited to, excessive cost, terrain, etc., the lot shall have adequate soils for the construction and operation of private

individual sewage treatment and private individual water systems, and sufficient area for at least one (1) replacement private sewage treatment system according to Ch. SPS 383, Wis. Adm. Code. Such determination shall be made by the Village Board based on whether unique circumstances exist and the overall well-being of best interests of serving the citizenry with public sewer/water facilities.

Sec. 13-1-26 Screens and Buffers.

- (a) **Required Screens and Buffers.** Where screens or buffers are required by this Chapter or the Village Board to reduce the impact of existing or proposed uses on adjacent properties, the following standards in Subsections (b) and (c) shall be followed. Buffer yards and screens may be required jointly or separately.
- (b) **Buffer Yards.** Buffer yards are horizontal separations along lot lines that are intended to increase the physical separation between incompatible uses. The width of the required buffer yard shall be determined by the Village Board, upon the recommendation of the Zoning Administrator. The minimum width shall be ten (10) feet.
- (c) **Screens.** Screens are barriers located in a limited space [ten (10) feet or less] intended to perform a buffering effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted vegetation, fences, walls, earth berms or similar techniques. Plant screens shall be sufficient to provide a year-round screen within three (3) years of installation. Walls or earth berms shall be required where noise reduction is necessary. Screen plantings shall be permanently maintained by the owner of the property, and any plant materials which do not live shall be replaced within six (6) months. The design of all screens shall be approved by the Zoning Administrator.

Sec. 13-1-27 Filling Activities.

- (a) **Purpose.** The purpose of this Section is:
 - (1) To regulate filling activities in order to avoid or mitigate negative impacts of changes to existing drainage patterns.
 - (2) To monitor the amount and type of material brought into the Village or transferred between sites within the Village of Crivitz.
 - (3) To prevent the creation of hazardous conditions or nuisances from filling activities.
 - (4) To prevent conflict with the installation of future underground public utilities.
 - (5) To promote the public health, safety and general welfare of the citizens of the Village of Crivitz without preventing the reasonable development of land.
 - (6) To encourage site development on public and private property in such a manner as to minimize hazards to life, health, property and natural resources.

- (7) To preserve and enhance the Village's physical and aesthetic character.
- (8) To minimize surface water runoff and diversion which may contribute to flooding and erosion.
- (9) To reduce siltation in the Village's streams and storm sewer system, and public roadside improvements, and in area streams and waterways.
- (10) To promote building and site planning practices that are consistent with the Village's natural topography, soils, and vegetative features.
- (11) To implement and further the Village's Comprehensive Plan and its components.
- (b) **Scope.** This Section is not intended to apply to businesses such as landscaping, nurseries, excavating businesses, or others that regularly stockpile fill material as defined herein, on the same property as the business. This Section does not apply to activities regulated by the State of Wisconsin pursuant to NR 718, Wis. Adm. Code "Management of Solid Waste Excavated During Remedial Actions", or any successor regulation.
- (c) **Definitions.** For purposes of this Section, the following definitions shall apply:
 - (1) **Acceptable Organic Materials.** Wood chips, shredded or chopped bark, sawdust, or similar material.
 - (2) **Acceptable Earth Materials.** Soil, topsoil, clay, sand, gravel, rock, stone, or other similar material.
 - (3) **Acceptable Fill Material.** Acceptable organic materials and acceptable earth materials as defined above, which are free from cinders, ashes, refuse, soft or plastic clays, and vegetable or other similar organic matter such as food waste, trees, branches, or stumps. Acceptable fill material shall be capable of being compacted. Up to ten percent (10%) of acceptable fill material may be cobbles (small boulders) or bricks, not more than twenty-four (24) inches in size in any direction.
 - (4) **Completed Application.** An application which meets all of the requirements as set forth in this Section, and which has been submitted to the Village along with the required number of copies and required fee.
 - (5) **Fill Material.** Any material of any description which is capable of being deposited on land.
 - (6) **Filling; Filling Activities.** Any depositing or stockpiling of any fill material.
- (d) **Prohibitions.**
 - (1) No person shall engage in any activity that involves fill material without a permit, except as provided by this Section.
 - (2) No person shall use in any fill material *anything* other than acceptable fill material as defined in this Section.
- (e) **Permit Required; Exceptions.**
 - (1) A permit shall be required for any activity that involves fill material as defined herein being brought onto a property from an off-site location.
 - (2) A permit is not required for the following fill activities:
 - a. When the total amount of fill material to be brought onto a property is less than fifty (50) cubic yards. A permit is required when the cumulative total amount of

fill material brought onto a property over any period of time, starting with the original effective date of this Section, is fifty (50) cubic yards or greater, even though an individual fill activity may involve less than fifty (50) cubic yards of fill.

- b. When the fill material is to be brought onto a site for a public improvement project which has been duly authorized by the appropriate public agency or agencies. For the purposes of this Section, a public improvement project shall be defined as a project funded with federal, state or municipal monies such as roads, utilities, parks, public buildings, or similar projects.
- c. The construction of any use which is subject to site plan review in accordance with the requirements of this Zoning Code.
- d. Ground restoration activities for public utility construction.

(f) **Application.**

- (1) An application for a fill permit shall be made by the land owner and shall be filed with the Zoning Administrator who shall provide the application form. The application shall include a fee as determined by Village Board resolution from time to time.
- (2) An application for a fill permit shall contain the following information:
 - a. The address and signature of the property owner and the business address of the person who will conduct the filling operation;
 - b. The tax parcel number of the property where the fill activity will take place;
 - c. The nature of the proposed project, the type of fill material to be brought onto the site, an estimate of the number of cubic yards of materials involved, and the depth and composition of proposed fill materials;
 - d. A statement of the manner in which the project work is to be completed, the kind of equipment proposed to be used, and estimated frequency of vehicle trips;
 - e. The proposed route which the applicant proposes to use over the public streets and over private property in transporting fill materials;
 - f. The time within which the project is to be commenced after the granting of the permit and the time when it is to be completed;
 - g. The measures that will be taken by the applicant to control noise, vibration, dust, and traffic, and the measures that will be provided during the project to prevent soil, dust, or other materials from being deposited on adjoining lands or public or private streets or in waterways through erosion by wind or water;
 - h. A description of any traffic control devices, public facilities, or public services which will be required for the proposed operation, and a statement indicating how these will be provided;
 - i. Any measures which the applicant proposes to take to insure public safety, especially the prevention of trespass by children or recreational vehicles on land where filling activities may create a hazardous situation.

- j. A drawing of the property which shall contain the following information unless waived by the Zoning Administrator:
 1. North arrow,
 2. The dimensions of the lot and acreage,
 3. Dimensions of area to be filled and proposed phasing and method of stabilization for each phase,
 4. The location of all roads bordering or on the property,
 5. The location of any power or gas lines on the property,
 6. The location of any easements on the property,
 7. Existing drainage patterns on the site,
 8. Natural features, such as significant vegetation, bodies of water, wetlands, and streams on the site as well as within five hundred (500) feet of the site,
 9. The location, size and use of buildings, structures, or other improvements on the land to which the Permit is to apply, as well as any buildings, structures, or other improvements within one hundred (100) feet of the property to which the Permit is to apply,
 10. Ingress and egress to the property,
 11. If the estimated fill volume is five hundred (500) cubic yards or more, a drawing of the property at a scale not to exceed one (1) inch equals two hundred (200) feet, showing any driveways or roads within one hundred twenty-five (125) feet of the driveway to the site, and which must illustrate existing and proposed contours at four (4) feet intervals (minimum) on the site and extending one hundred (100) feet beyond the boundaries of the site. Such contours shall be certified by a registered engineer, surveyor, or landscape architect.
 12. Additional information as the Zoning Administrator may reasonably require to assist in reviewing the application.
 - k. The names and addresses of all owners of property within two hundred (200) feet of the property where the fill activity will take place.
- (3) The applicant shall submit two (2) copies of the application if the estimated fill volume is greater than fifty (50) and less than five hundred (500) cubic yards. The applicant shall submit eighteen (18) copies of the application if the estimated fill volume is five hundred (500) cubic yards or more.
- (g) **Notice to Neighboring Landowners.** Upon receipt of a completed application, the Zoning Administrator shall by regular mail provide notice of the application to the record address of all owners of property within two hundred (200) feet of the property where the fill activity will take place. The notice shall inform each owner of a right to file comments on the application within two (2) weeks of the date the notice is mailed.
- (h) **Review by Zoning Administrator.** The Zoning Administrator shall approve or disapprove all applications for fill activities involving between fifty (50) and five hundred (500) cubic

yards of fill material. The Zoning Administrator may, however, refer any such application to the Plan Commission and Village Board for review and disposition. If, in the opinion of the Zoning Administrator, the proposal described in the application is in compliance with the requirements of this Section, and if the application is for a permit involving less than five hundred (500) cubic yards, a fill permit shall be issued to the applicant. If the applicant or the proposal described therein does not meet the requirements of this Section, the Zoning Administrator shall so notify the applicant in writing, stating the reasons for denial of the permit. Any person or party who is adversely affected by a decision of the Zoning Administrator under this Section may appeal such decision as provided in Article N of this Chapter.

- (i) **Review by Plan Commission and Village Board.** The Zoning Administrator shall review for completeness and compliance with this Section all applications for fill activities involving over five hundred (500) cubic yards of fill material. The Zoning Administrator shall refer to the Plan Commission for review all completed applications for such fill activities. The Zoning Administrator shall return to the applicant any application that is not a completed application. After review and recommendation by the Plan Commission, the Village Board shall approve, disapprove or conditionally approve all completed applications for fill activities involving over five hundred (500) cubic yards of fill material, and any completed application for less than five hundred (500) cubic yards of fill material referred by the Zoning Administrator for Village Board decision under Subsection (h), pursuant to the procedures set forth below:
- (1) The Zoning Administrator shall place the application on the next appropriate Plan Commission agenda for a public hearing. The Zoning Administrator shall follow the public hearing notification procedures as set forth in Section 13-1-84.
 - (2) The Plan Commission shall hold a public hearing on the application and shall make a recommendation on the application based on the information presented to it.
 - (3) The Plan Commission may recommend to approve, deny, modify, or approve with conditions the application.
 - (4) If the proposed operation is in compliance with the requirements of this Section, the Plan Commission shall recommend the application for approval.
 - (5) The Village Board shall consider the recommendation of the Plan Commission, and if it determines that the proposed operation is in compliance with the requirements of this Section, it shall instruct the Zoning Administrator to issue a fill permit. If the proposed operation fails to meet the requirements of this Section, the Village Board shall deny the permit and instruct the Zoning Administrator to notify the applicant, in writing, of the reasons for denial.
- (j) **Standards for Approval.** The following standards shall serve as the basis for decisions involving fill permits. In making the following determinations, the Zoning Administrator or Plan Commission and Village Board, as the case may be, shall take into account any comments received in response to the notice provided under Subsection (g) above. In order

to issue a permit, the Zoning Administrator or Village Board, as the case may be, must find that each of the following standards is met:

- (1) The operation shall not interfere with existing drainage patterns. If the fill does interfere with existing drainage patterns, the applicant shall bear the burden of establishing that the interference does not have a negative impact on adjoining properties or on other properties, streams, or waterways, including, but not limited to, the creation or contribution to landslides, flooding, erosion, increased turbidity, siltation, or other form of pollution to a water course or water body.
 - (2) The operation shall not result in hazardous traffic situations from vehicles entering or leaving the site.
 - (3) The operation shall not result in hazardous traffic situations from vehicles entering or leaving the site.
 - (4) The operation will be carried out in a manner that will not be detrimental to nearby persons or property by reason of excessive production of traffic, noise, dust, fumes, or odor.
 - (5) The fill material is not hazardous, toxic or otherwise a threat to the public health, safety, and general welfare, and complies with the type of fill permitted by this Section.
 - (6) The resulting elevation of the land will be compatible with elevations on adjacent properties.
 - (7) The fill will not restrict a floodway or destroy the storage capacity of a floodplain.
 - (8) Fill slopes shall not be constructed on natural slopes which are steeper than two (2) horizontal to one (1) vertical.
 - (9) The slopes of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes exceeding five (5) feet in depth shall be no steeper than two (2) horizontal to one (1) vertical, except where approved retaining walls are engineered and installed.
 - (10) When the owner of any parcel shall raise, lower or alter the level or existing grade of a site by a fill or excavation, he/she shall at his/her own expense protect all adjoining property from encroachment by such fill or from danger of collapse due to such excavation either by the erection of an engineered retaining wall or by sloping the sides of such fill or excavation entirely within the confines of the site in a manner approved by the Zoning Administrator or Village Board.
 - (11) Cut and fill slopes shall be provided with subsurface and surface drainage as necessary to retain slope stability.
 - (12) The faces of slopes shall be prepared and maintained to control erosion. Check dams, riprap, plantings, terraces, diversion ditches, sedimentation ponds, straw bales or other devices or methods shall be employed where necessary to control erosion and provide safety. Devices or procedures for erosion protection shall be initiated or installed before grading operations and shall be maintained in operable condition by the owner.
- (k) **Restrictions Governing Permit Holders.** Every person to whom any permit is granted under this Section shall comply with the following:

- (1) The topsoil for the area to be filled shall first be removed before any fill is brought onto the site. If stockpiled on site, the topsoil shall be no higher than twelve (12) feet and comply with Subsection (j)(7) herein.
- (2) All vehicles transporting fill materials from or to a project over public streets in the Village shall follow the truck route approved with the application.
- (3) The resulting elevation of the land shall be compatible with the surrounding area and the land shall be left in a condition suitable for subsequent development for uses permitted in the zoning district in which the land is zoned.
- (4) If, at the time the permit is granted, the Zoning Administrator shall determine that any project will present a dangerous condition if left open and unfenced, then such project shall be enclosed by chain link, wire mesh, or snow fence completely surrounding the portion of the land where the project extends; said fence to be not less than four (4) feet in height and to be complete with gates, such gates to be kept locked when operations are not being carried on. Barbed wire shall not be used as part of any such fence.
- (5) Any fill materials that may be spilled on any public street or public place from any vehicle transporting materials from the project site shall be immediately removed without damage to the public street or public place at the expense of the permit holder.
- (6) Any on-site roads used for the purpose of ingress and egress to the site which are located within three hundred (300) feet of any occupied residential, commercial or industrial establishment must be treated to reduce airborne dust by hand-topping with concrete, asphalt, chemical treatment, or such other means as may be proposed by the applicant and approved by the Zoning Administrator or Village Board at the time a permit is granted.
- (7) The slopes of the banks of the materials dumped, stockpiled, or used as fill shall not exceed two (2) horizontal to one (1) vertical and shall be compatible with adjoining grades and land uses. However, the Zoning Administrator or Village Board may, at the time a permit is granted, prescribe more lenient or stricter requirements.
- (8) Filling activities shall not interfere with or change existing surface water drainage so as to be detrimental to nearby properties.
- (9) Any phases of the fill operation are completed, they shall be stabilized by ground cover by the applicant to prevent erosion by wind and water. The Zoning Administrator shall approve the stabilization plan so that continuing fill activities will avoid newly stabilized areas.
- (10) The Village Board or Zoning Administrator may require additional performance standards or stricter performance standards than are provided herein where, because of peculiar conditions, such standards are necessary to achieve the purposes of these regulations. In addition, the Village Board may also attach and impose conditions, restrictions, or requirements as it shall determine are necessary to achieve the purposes

of these regulations. Violations of any performance standard, condition, restriction, or requirements imposed by the Village Board shall be deemed a violation of these regulations.

- (11) Conditions imposed by the Zoning Administrator or Village Board shall remain unchanged unless a change is mutually agreed to by the applicant and the Zoning Administrator or Village Board in writing.
 - (12) An authorized inspection official of the Village of Crivitz may, at all reasonable times, enter upon any public or private premises for inspection purposes and may require production of the permit and plans for any and all excavation and topography changes. No person shall interfere with or refuse to permit access to any such premises to such inspector while in the performance of his/her duties.
- (l) **Project Completion.** In order to insure that fill activities authorized by this Section are carried out to completion, the following procedures shall be followed:
- (1) Upon completion of a project or expiration of a Fill Permit, the applicant shall contact the Zoning Administrator to arrange for an inspection of the site. If the requirements have not been met, the Zoning Administrator shall notify the applicant in writing of the permit deficiencies and shall pursue permit compliance as authorized by this Section.
 - (2) For those permits approved by the Village Board, the above procedure shall be followed. In addition to this, the applicant shall retain the services of a registered engineer or surveyor to certify that the final elevations of the fill activity comply with those illustrated by this Section.
- (m) **Bond and Insurance.** The Village Board or Zoning Administrator may require as a condition to the granting of a permit that the applicant file or deposit with the Village Clerk-Treasurer performance securities in the form of a performance bond, cash, certified or cashier's check payable to the Village of Crivitz, or an irrevocable bank letter of credit, in a form satisfactory to the Village Attorney. The Village Board or Zoning Administrator shall, in establishing the amount of the surety, consider the scale of the operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs, and other reasonable expenses to guarantee that the applicant will fully and faithfully perform all applicable performance standards, conditions, restrictions, and requirements of these regulations. An engineer may be consulted in determining the amount of the surety, and such consultation costs shall be added to the permit fee. The Village Board may also require, as a condition to the granting of any such permit, that the applicant deposit a certificate of an indemnity company licensed to do business in the State of Wisconsin or a letter of credit, in an amount reasonably relevant to the proposed work to be done as specified by the Village Board, insuring the Village of Crivitz against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any person acting on his/her behalf, in carrying on any work connected directly or indirectly with the issuance of said permit.

- (n) **Expiration of Permit.** A permit granted under this Section shall be valid for one (1) year, at which time it shall automatically expire. A permit holder may apply to the Zoning Administrator for renewal of a permit upon payment of the renewal fee as set from time to time by the Village of Crivitz.
- (o) **Suspension or Revocation of Permit.** Any permit granted under these regulations may be suspended or revoked for failure to comply with any provisions of this Section or with any of the performance standards, conditions, restrictions or requirements attached and imposed as part of the issuance of a permit. The Zoning Administrator or his/her designee may suspend a permit and issue a stop work order if there are grounds to reasonably believe that any provision of this Section or any condition of the permit is being violated. The Village Board may revoke a permit after a hearing held on ten (10) days' written notice to the permit holder stating the grounds for the revocation, and stating the time and place where such hearing will be held.

Sec. 13-1-28 Establishment of Building Grades.

- (a) **Establishment of Building Grade Required.** No person, corporation, or entity shall establish a grade for a building being erected, structurally altered, or relocated under this Section without prior approval of the Building Inspector or Zoning Administrator. This provision applies to all applications for zoning permits, including those for residential zoning districts.
- (b) **Building Grades.**
 - (1) Elevations for buildings shall be established as based on an average building-to-street height relationship, which shall be a minimum of two (2) feet with a front yard/driveway slope of between one percent (1%) and ten percent (10%). The Building Inspector or Zoning Administrator shall review the information provided regarding the building-to-street height relationship in the information submitted at the time of the zoning permit request.
 - (2) If the building-to-street height relationship is not provided at the time of the zoning permit request or if verification is necessary, the Building Inspector or Zoning Administrator may require the permit applicant to provide necessary elevations on a plan drawing, prepared by a qualified contractor, land surveyor, or Wisconsin-licensed engineer prior to permit issuance.
- (c) **Building-to-Height Measurement.**
 - (1) The building-to-height relationship shall be referenced from the curb grade as defined in Article P of this Chapter or the street centerline grade where no curb is present. For streets with significant slope, the average elevation shall be used and is considered to be the mean of two (2) street elevations taken at the straight projection on the frontage street of the side building lines. Additional information may be required in

the cases of non-uniform lot dimensions, non-uniform building lines or reversed corner lots, as determined by the Building Inspector or Zoning Administrator.

- (2) The building-to-street height relationship may be dictated as based on existing utility services, such as Village sanitary sewer service. In the case of a conflict between sanitary sewer and street grades, the most restrictive condition shall apply.
- (3) The building elevation shall be taken on the finished top of the concrete foundation wall, or the finished garage slab, of the existing or planned building. The Building Inspector or Zoning Administrator shall determine the building-to-street height relationship based on this information and identify the controlling building level where surface stormwater drainage above that elevation would adversely affect exterior or interior building appurtenances. Buildings with walkout designs and partial exposure amenities are considered special conditions which may require more information for review prior to a determination on the application.

(d) **Permit Issuance.**

- (1) If the Building Inspector or Zoning Administrator, upon the review of the application information, determines a potential problem in the site grading or drainage in regard to a neighboring property, the Building Inspector or Zoning Administrator shall notify the applicant and the Public Works Supervisor. No building permit shall be issued until zoning permit requirements under this Section have been satisfactorily addressed in the plan.
- (2) The Village may require the written consent of neighboring property owners regarding the proposed grade-related activity prior to issuance of any permits. The Village does not warranty or assume any liability regarding any grading or drainage problems following the issuance of a permit.

(e) **Accessory Building Grades.** For any new accessory building, establishment of grade shall be determined per the provisions of this Section, and/or existing or new driveway permit conditions, and/or referenced off the existing principal structure, whichever is more restrictive. While the Village does not enforce restrictive covenants or deed restrictions, these may be reviewed and considered under the permit review process.

(f) **Variances.** An applicant may request a variance from the requirements of this Section due to unusual or unique circumstances with the property. Such variance requests shall be made prior to the issuance of any applicable permits, and shall be reviewed pursuant to the procedures in Section 13-1-263. The Building Inspector, Zoning Administrator and/or Public Works Supervisor may make recommendations to the Zoning Board of Appeals regarding the variance request.

(g) **Nonconforming Structures.** Buildings which are classified as nonconforming structures shall also be subject to the provisions of Article F of this Chapter.

Sec. 13-1-29 Annexation of Territory.

- (a) **Definitions.** In this Section, the following definitions shall be applicable unless the context clearly requires otherwise:

- (1) **Assessed Value.** The value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.
- (2) **Legal Description.** A complete description of land to be annexed without internal references to any other internal references to any other document, and shall be described in one of the following ways:
 - a. By metes and bounds commencing at a monument at the section or quarter section corner or at the end of a boundary line of a recorded private claim or federal reservation in which the annexed land is located and in one of the following ways:
 1. By government lot.
 2. By recorded private claim.
 3. By quarter section, section, township and range.
 - b. If the land is located in a recorded subdivision or in an area subject to a certified survey map, by reference as described in Sections 236.28 or 236.34(3), Wis. Stats.
- (3) **Owner.** The holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his or her interest.
- (4) **Petition.** Includes the original petition and any counterpart thereof.
- (5) **Real Property.** Land and the improvement thereon.
- (6) **Scale Map.** A map that accurately reflects the legal description of the property to be annexed and the boundary of the annexing city or village, and that includes a graphic scale on the face of the map.
- (b) **Methods of Annexation.** This Section explains annexation procedures by municipalities pursuant to the Wisconsin Statutes. Subject to Section 66.0307, Wis. Stats., territory contiguous to any city or village may be annexed thereto in the following ways:
 - (1) **Direct Annexation.** A petition for direct annexation may be filed with the Village Clerk-Treasurer if it has been signed by either of the following:
 - a. A number of qualified elector(s) residing in the territory subject to the proposed annexation equal to at least the majority of votes cast for governor in the territory at the last gubernatorial election, and either of the following:
 1. The owners of one-half of the land in area within the territory.
 2. The owners of one-half of the real property in assessed value within the territory.
 - b. If no electors reside in the territory subject to the proposed annexation, by either of the following:
 1. The owners of one-half of the land in area within the territory.
 2. The owners of one-half of the real property in assessed value within the territory.

- (2) **Annexation By Referendum.** A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by a number of qualified electors residing in the territory equal to at least twenty percent (20%) of the votes cast for governor in the territory at the last gubernatorial election, and the owners of at least fifty percent (50%) of the real property either in area or assessed value. The petition shall conform to the requirements of Section 8.40, Wis. Stats.
 - (3) **Elector Determination.** Whenever a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with the Wisconsin Statutes.
 - (c) **Notice.**
 - (1) **Notice Publication.** The annexation shall be initiated by publishing in the territory proposed for annexation a Class I notice, under Ch. 985, Wis. Stats., of intention to circulate an annexation petition. The notice shall contain:
 - a. A statement of intention to circulate an annexation petition.
 - b. A legal description of the territory proposed to be annexed and a copy of a scale map.
 - c. The name of the city or village to which the annexation is proposed.
 - d. The name of the town or towns from which the territory is proposed to be detached.
 - e. The name and post-office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.
 - (2) **Service of Notices.** The person who caused the notice to be published shall serve a copy of the notice, within five (5) days after its publication, upon the clerk of each municipality affected, upon the clerk of each school district affected and upon each owner of land in a town if that land will be in a city or village annexation. Such service may be either by personal service or by registered mail with return receipt requested.
 - (d) **Petition.**
 - (1) **Petition Contents.** The petition shall state the purpose of the petition, contain a legal description of the territory proposed to be annexed and have attached thereto a scale map. The petition shall also specify the population, as defined in Section 66.0201(2), Wis. Stats., of the territory.
 - (2) **Finality of Signatures.** No person who has signed a petition shall be permitted to withdraw his or her name therefrom. No additional signatures shall be added after a petition is filed.
 - (3) **Circulation Timing.** The circulation of the petition shall commence not less than ten (10) days or more than twenty (20) days after the date of publication of the notice of intention to circulate. The annexation petition shall be void unless filed within six (6) months of the date of publication of the notice.
 - (e) **Referendum.**
 - (1) **Notice.**
 - a. Within sixty (60) days after the filing of the petition, the common council or village board may accept or reject the petition and, if rejected, no further action

shall be taken thereon. Acceptance may consist of adoption of an annexation ordinance.

- b. Failure to reject the petition shall obligate the city or village to pay the cost of any referendum favorable to annexation. If the petition is not rejected, the clerk of the city or village with whom the annexation petition is filed shall give written notice thereof by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who files a written request therefore with the clerk. Such notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation.
 - c. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in Subsection (c) above of a referendum of the electors residing in the area proposed for annexation to be held within thirty (30) days after the date of personal service or mailing of the notice required under this paragraph.
 - d. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within thirty (30) days after the date of personal service or mailing of the notice required under this paragraph, a petition conforming to the requirements of Section 8.40, Wis. Stats., requesting a referendum is filed with the town clerk signed by at least twenty percent (20%) of the electors residing in the area proposed to be annexed. If such a petition is filed, the clerk shall give notice as provided in Subsection (c) above of a referendum of the electors residing in the area proposed for annexation to be held within thirty (30) days of the receipt of the petition and shall mail a copy of such notice to the clerk of the city or village to which the annexation is proposed.
 - e. Any referendum shall be held at a convenient place within the town to be specified in the notice.
- (2) **Clerk To Act.** If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under Subsection (e)(1) such determination. The clerk of the town so designated shall perform the duties required hereunder and the election shall be conducted in such town, as are other elections and conducted therein.
- (3) **Publication of Notice.** The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to such publication.
- (4) **How Conducted.** The referendum shall be conducted by the town election officials but the town board may reduce the number of such officials for that election. The ballots shall contain the words "For Annexation" and "Against Annexation" and shall otherwise conform to the provisions of Section 5.64(2), Wis. Stats. The election shall

be conducted, as are other town elections in accordance with Chs. 6 and 7, Wis. Stats., insofar as applicable.

- (5) **Canvass; Statement To Be Filed.** The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach thereto their affidavit and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each other municipality affected.
- (6) **Costs.** If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in such territory, voting in the referendum.
- (7) **Effect.** If the result of the referendum is against annexation, all previous proceedings shall be nullified. If the result of the referendum is annexation, failure of any town official to perform literally any duty required by this Section shall not invalidate the annexation.
- (f) **Qualifications.** Qualifications as to electors and owners shall be determined as of the date of filing any petition, except that all qualified electors residing in the territory proposed for annexation on the day of the conduct of a referendum election shall be entitled to vote therein. Residence and ownership must be bonafide and not acquired for the purpose of defeating or invalidating the annexation proceedings.
- (g) **Annexation Ordinance.**
 - (1) **Enactment.** An ordinance for the annexation of the territory describing in the annexation petition may be enacted by a two-thirds vote of the elected member of the governing body not less than twenty (20) days after the publication of the notice of intention to circulate the petition and not later than one hundred twenty (120) days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to Subsection (k), the governing body shall first review the reasons given by the Wisconsin Department of Administration that the proposed annexation is against the public interest. Subject to Section 59.692(7), Wis. Stats., such an ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in Section 62.23(7)(d), Wis. Stats. Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the Plan Commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in Section 59.69(7), Wis. Stats.
 - (2) **Wards.** The ordinance may annex the territory to an existing ward or may create an additional ward.
 - (3) **Effective Date of Annexation.** The annexation shall be effective upon enactment of the annexation ordinance. The board of school directors in any city of first class shall

not be required to administer the schools in any territory annexed to any such city until July 1 following such annexation.

(h) **Filing Requirements; Surveys.**

- (1) **Recordings.** The clerk of a city or village which has annexed territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall also record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district. Failure to file, record or send shall not invalidate the annexation and the duty to file, record or send shall be a continuing one. The ordinance that is filed, recorded or sent shall describe the annexed territory and the associated population. The information filed with the Secretary of State shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under Ch. 79, Wis. Stats. The clerk shall certify annually to the Secretary of State and record with the Register of Deeds a legal description of the total boundaries of the municipality, as those boundaries existed on December 1, unless there has been no change in the twelve (12) months proceeding.
 - (2) **State Agency Review.** Within ten (10) days of receipt of the annexation ordinance, certificate and plat, the Secretary of State shall forward two (2) copies of the ordinance, certificate and plat to the Wisconsin Department of Transportation, one (1) copy to the Wisconsin Department of Administration, one (1) copy to the Wisconsin Department of Revenue, one (1) copy to the Wisconsin Department of Public Instruction, one (1) copy to the Wisconsin Department of Administration, one (1) copy to the Wisconsin Department of Natural Resources, and one (1) copy to the Wisconsin Department of Agriculture, Trade and Consumer Protection, and two (2) copies to the clerk of the municipality from which the territory was annexed.
 - (3) **Special Survey.** Any city or village may direct a survey of its present boundaries to be made, and when properly attested, the survey and plat may be filed in the Office of the Register of Deeds in the county in which the city or village is located, whereupon the survey and plat shall be prima facie evidence of the facts therein set forth.
- (i) **Validity of Plats.** Where any annexation is declared invalid but prior to such declaration and subsequent to such annexation a plat has been submitted and has been approved as required in Section 236.10(1)(a), Wis. Stats., such plat shall be deemed validly approved despite the invalidity of the annexation.
- (j) **Action Contesting Validity of Annexation.**
- (1) **Time of Commencement.** An action on any grounds whatsoever, whether denominated procedural or jurisdictional, to contest the validity of an annexation shall be commenced within the time after adoption of the annexation ordinance provided by Section 893.73(2), Wis. Stats.

- (2) **Preference in Circuit Court.** An action contesting an annexation shall be given preference in circuit court.
- (k) **Review of Annexations.**
 - (1) **Annexations Within Populous Counties.** No annexation proceeding within a county having a population of fifty thousand (50,000) or more shall be valid unless the person causing a notice of annexation is published under Subsection (c) shall within five (5) days of the publication mail a copy of the notice, legal description and a scale map of the proposed annexation to the clerk of each municipality affected and the Wisconsin Department of Administration (Department). The Department may within twenty (20) days after the receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that in its opinion the annexation is against the public interest. No later than ten (10) days after mailing the notice, the Department shall advise the clerk of the town in which the territory is located and the clerk of the village or city to which the annexation is proposed of the reasons the annexation is against the public interest as defined in Subsection (k)(2) below. The annexing municipality shall review the advice before final action is taken.
 - (2) **Definition of Public Interest.** For purposes of this Subsection, "public interest" is determined by the Wisconsin Department of Administration after consideration of the following:
 - a. Whether the government services, including zoning, to be supplied to the territory could clearly be better supplied by the town or some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.
 - b. The shape of the proposed annexation and the homogeneity of the territory with the annexing village or city and any other contiguous village or city.
- (l) **Unanimous Approval Annexations.** If a petition for direct annexation signed by all of the electors residing in the territory and the owner of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of the town or towns in which the territory is located, together with a scale map and a legal description of the property to be annexed, an annexation ordinance for the annexation of the territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of Subsection (c) above. In such annexations, subject to Subsection (k), the person filing the copy of the scale map and a legal description of the territory to be annexed to the Wisconsin Department of Administration and the governing body shall review the advice of the Department, if any, before enacting the annexation ordinance.

- (m) **Review Requirements.** The provisions of Subsection (l) do not eliminate the necessity for review as required by Subsection (k).
- (n) **Annexation of Town Islands.** Upon its own motion, a city or village by a two-thirds vote of the entire membership of its governing body may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the village or city on December 2, 1973. The ordinance shall include all surrounded town areas except those exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a legal description of the territory and the name of the town or towns from which the territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file six (6) certified copies of the ordinance in the office of the Wisconsin Secretary of State, together with six (6) copies of the scale map. The Secretary of State shall forward two (2) copies of the ordinance and scale map to the Wisconsin Department of Transportation, one (1) copy to the Wisconsin Department of Natural Resources, one (1) copy to the Wisconsin Department of Revenue, and one (1) copy to the Wisconsin Department of Administration. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This Subsection does not apply to land owned by a town government which has existing town government buildings located thereon. No town island may be annexed under this Subsection if the island consists of over sixty-five (65) acres or contains over one hundred (100) residents. After December 2, 1973, no city or village may, by annexation, create a town island, which is completely surrounded by the city or village.
- (o) **Effective Date of Annexations.** Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any annexation action that affects a tract of land that is the subject of an ordinance enacted or resolution adopted by any city during the period from January 1, 1990 to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April 1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at such later date as may be specified in the annexation ordinance. This Subsection first applies to annexations effective after March 31, 1991.
- (p) **Annexation of Municipal-Owned Territory.** In addition to other methods provided by law and subject to Sections 59.692(7), 66.0223 and 66.0307, Wis. Stats., territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the village or city is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached and shall operate to attach the territory to the village or city upon the filing

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of six (6) copies of a plat showing the boundaries of the territory attached. Two (2) copies of the ordinance and plat shall be forwarded by the Wisconsin Secretary of State to the Wisconsin Department of Transportation, one (1) copy to the Wisconsin Department of Natural Resources, one (1) copy to Wisconsin Department of Revenue, and one (1) copy to the Wisconsin Department of Public Instruction.

Sec. 13-1-30 through Sec. 13-1-39 Reserved for Future Use.