

PART 7: PROCEDURES AND ADMINISTRATION

DIVISION 19.07.0100 ZONING PROCEDURES AND ADMINISTRATION

SECTION 19.07.0101 ZONING ADMINISTRATOR DESIGNATED

The Building Inspector of the Village of Grafton is designated as the Zoning Administrator of said Village, to be responsible for enforcing this Zoning Ordinance. Said Zoning Administrator shall have the power and shall see that the provisions of this Ordinance are properly enforced.

A. **Duties of the Zoning Administrator.** In the enforcement of this Ordinance the Zoning Administrator shall perform the following duties:

1. Advise applicants as to the provisions of this Ordinance and assist them in preparing application forms.
2. Issue the necessary Zoning Permits, Conditional Use Permits, and other permits as provided for in the provisions of this Ordinance and assure that the provisions of this Ordinance have been complied with.
3. Inspect properties for compliance with this Ordinance.
4. Keep records of all permits issued, interpretations made, inspections made, work approved and other official actions.
5. Have access to any structure or premises at any reasonable time for the purpose of performing these duties.
6. Issue citations for violations of this Ordinance.
7. Issue stop work orders for violations of this Ordinance. The removal of said stop work orders shall be unlawful.
8. Create such forms and procedures deemed necessary to administer and enforce this Ordinance.

B. **Authority.** In the enforcement of this Ordinance the Zoning Administrator shall have the power and authority for the following:

1. At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof.
2. Upon reasonable cause or question as to proper compliance, to revoke any Zoning Permit, Building Permit, or Occupancy Permit and issue cease and desist orders requiring the cessation of any building, moving, alteration, or use that is in violation of the provisions of this Ordinance, such revocation to be in effect until reinstated by the Zoning Administrator or the Zoning Board of Appeals.
3. In the name of the Village, commence any legal proceedings necessary to enforce the provisions of this Ordinance including the collection of forfeitures provided for herein.

SECTION 19.07.0102 APPLICATIONS FOR ZONING PERMIT

In all zoning districts no vacant land shall be occupied or used and no building shall be erected, structurally altered, relocated, or used including, but not limited to, use by a new use or changed use, until a Zoning Permit has been approved by the Zoning Administrator to certify that any such site, building, or use complies with the provisions of this Ordinance. No Zoning Permit is required for uses requiring a Conditional Use Permit.

A. **Zoning Permit Requirements in the MFR-1, MFR-2, CBD, C-1, C-2, C-3, C-4, O, BP, M-1, PID, I, PR, A-1 (nonresidential structures), A-2 (nonresidential structures), A-3 (nonresidential structures), and PUD (except single-family and two-family residential dwelling structures) Districts.** The following are the Zoning Permit requirements in the MFR-1, MFR-2, CBD, C-1, C-2, C-3, C-4, O, BP, M-1, PID, I, PR, A-1 (nonresidential structures), A-2 (nonresidential structures), A-3 (nonresidential structures), and PUD (except single-family and two-family residential dwelling structures) Districts:

1. **Application.** Application for a Zoning Permit shall be made in duplicate to the Zoning Administrator for consideration of the intended use. The Zoning Permit shall include the following:
 - a. The name, address, and phone number of the applicant or agent to be contacted regarding the application.
 - b. Description of the property by lot, block, and recorded Subdivision, Certified Survey Map, or by metes and bounds; the address of the subject site; type of structure; a word description of the existing and proposed operation or use of the structure or site; number of employees; the zoning district within which the subject site lies; and any other information pertinent to an adequate understanding of the intended use by the Zoning Administrator, Village Engineer, Village Planner, and Plan Commission (when a Site Plan is involved).
 - c. A Site Plan of the property in a form and indicating information and data as set forth under the requirements of Division 19.06.0100 of this Ordinance.
 - d. The Village Clerk (or other Village Board authorized agent), after scheduling an appearance before the Plan Commission for review of the Site Plan, shall refer the application, site plan, and related data to appropriate Village Departments and the Site Plan to the Plan Commission members for their study and/or comment..
 - e. In considering the application, the Zoning Administrator shall take into account the basic intent of this Ordinance to ensure attractive, efficient, and appropriate development of land in the community and ensure that every reasonable step has been taken to avoid depreciating effects on surrounding property values.
2. **Issuance of Zoning Permit.** If such use complies with the requirements of this Ordinance and such other additional measures as may be imposed pursuant to the requirements of this Ordinance, the Plan Commission shall approve the Site Plan and the Zoning Administrator shall authorize the issuance of a Zoning Permit.

B. **Zoning Permit Requirements in the R-RE, R-E, R-1, R-S, R-2, R-3, R-4, R-5, R-6, A-1 (residential structures), A-2 (residential structures), A-3 (residential structures), and PUD (single-family and two-family residential dwelling structures) Districts.** The following are the Zoning Permit requirements in the R-RE, R-E, R-1, R-S, R-2, R-3, R-4, R-5, R-6, A-1 (residential structures), A-2 (residential structures), A-3 (residential structures), and PUD (single-family and two-family residential dwelling structures) Districts:

1. **Application.** Application for a Zoning Permit shall be made in duplicate to the Zoning Administrator for consideration of the intended use. The Zoning Permit shall include the following:
 - a. The name, address, and phone number of the applicant or agent to be contacted regarding the application.
 - b. Description of the property by lot, block, and recorded Subdivision, Certified Survey Map, or by metes and bounds; the address of the subject site; type of structure; a word description of the existing and proposed operation or use of the structure or site; the zoning district within which the subject site lies; and any other information pertinent to an adequate understanding of the intended use by the Zoning Administrator.
 - c. The Zoning Administrator may require a Site Plan of the property in a form and indicating information and data as set forth under the requirements of Division 19.06.0100 of this Ordinance.
 - d. In considering the application, the Zoning Administrator shall take into account the basic intent of this Ordinance to ensure attractive, efficient, and appropriate development of land in the community and ensure that every reasonable step has been taken to avoid depreciating effects on surrounding property values.

2. **Issuance of Zoning Permit.** If such use complies with the requirements of this Ordinance and such other additional measures as may be imposed pursuant to the requirements of this Ordinance, the Zoning Administrator shall authorize the issuance of a Zoning Permit.
- C. **Zoning Permit Expiration.** A Zoning Permit shall expire if within six (6) months of the date of issuance of a Zoning Permit the proposed construction or preparation of land for use has not commenced or if the use has not occupied the structure or location. Upon the showing of valid cause by the applicant, the Zoning Administrator may grant an extension of such Zoning Permit for a period not to exceed six (6) months.
- D. **Enforcement.** Failure to comply with this Section relating to Zoning Permits may be enforced pursuant to Division 19.07.0500 of this Ordinance, or any other provision of law including but not limited to revocation of the Zoning Permit, injunction, or other civil suit.

SECTION 19.07.0103 APPLICATIONS FOR CONDITIONAL USE PERMIT

- A. **General.** It is recognized that there are uses which, because of their unique characteristics, cannot be properly classified in any particular zoning district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such conditional uses fall into two categories:
1. Uses publicly operated or traditionally affected with a public interest.
 2. Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- B. **Initiation of Conditional Uses.** Any person owning or having an interest in the subject property may file an application to use such land for one (1) or more of the conditional uses provided for in this Ordinance and in the zoning district in which the land is situated, but in addition:
1. An existing or potential lessee of all or part of the land may also file an application for a conditional use permit, provided that the application also includes written correspondence from the property owner indicating his or her consent. (Ord. 008, Series 2001, Part 25).
 2. A person may file concurrent applications for a conditional use permit and a zoning ordinance amendment that would establish the desired use as an allowable conditional use on the subject property, or may file an application for a conditional use subject to Village approval of a pending zoning ordinance amendment. However, the applicant shall not be entitled to a refund of any fees or charges associated with the conditional use permit application if the Village Board does not approve the proposed or pending zoning ordinance amendment. (Ord. 008, Series 2001, Part 25).
- C. **Application for Conditional Uses.** A Conditional Use Permit application for a Conditional Use, or for the expansion of an existing conditional use, shall be filed with the Village Clerk (or other Village Board authorized agent) on a Conditional Use Permit application form prescribed by the Village Clerk (or other Village Board authorized agent). The Conditional Use Permit application shall be accompanied by a legal description of the property for which a Conditional Use Permit is being applied for, such plans or data prescribed on the application form, a statement in writing by the applicant, and adequate evidence showing that the proposed conditional use will conform to the standards set forth in Division 19.03.0700 of this Ordinance and those other standards set forth in this Ordinance that may also be applicable.
- D. **Hearing on Conditional Use Application.** Upon receipt in proper form of the application and statement referred to above, the Plan Commission shall hold at least one (1) public hearing. A notice of public hearing shall be published in a newspaper of general circulation in the Village of Grafton as a Class 2 legal notice, as defined in Wisconsin Statutes Chapter 985. Due notice shall also be given to property owners of properties located within two hundred (200) feet of the affected property and all property under the same ownership. The Village Clerk (or other Village Board authorized agent) shall set the date for the public hearing(s). (Ordinance No. 005, Series 2004, Part 2)

- E. **Authorization of Conditional Uses.** For each application for a Conditional Use Permit, the Plan Commission shall make its decision based upon its findings. In addition the Plan Commission shall have the ability to include the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The Plan Commission may grant or deny any application for a Conditional Use Permit. (Ord. 005, Series 2004, Part 2)
- F. **Effect of Denial of a Conditional Use Permit.** No application for a Conditional Use Permit which has been denied wholly or in part by the Plan Commission shall be resubmitted for thirty (30) days from the date of said order of denial. (Ord. 005, Series 2004, Part 2)
- G. **Revocation.** In any case where a conditional use has not been established within one (1) year after the date of granting thereof, then without further action by the Plan Commission, the Conditional Use Permit shall be null and void. (Ord. 005, Series 2004, Part 2)
- H. **Annual Review of Conditional Use Permits.** All Conditional Use Permits shall be reviewed on an annual basis by the Zoning Administrator for their continued compliance with all conditions of approval. If any Conditional Use Permit granted is found to be in violation of any conditions of its approval, said Conditional Use Permit shall be referred by the Zoning Administrator to the Plan Commission for potential revocation. (Ord. 005, Series 2004, part 2)

SECTION 19.07.0104 APPLICATIONS FOR CERTIFICATE OF OCCUPANCY

- A. **When a Certificate of Occupancy is Required.** A Certificate of Occupancy to be issued by the Building Inspector shall be required for any of the following, except buildings incidental to agricultural operations other than residences:
 - 1. Occupancy and use of a building hereafter erected or enlarged.
 - 2. Change in use of an existing building.
 - 3. Any change in the use of a nonconforming use.
- B. **No Occupancy, Use, or Change of Use Shall Take Place.** No such occupancy, use, or change of use shall take place until a Certificate of Occupancy therefore shall have been issued and the requirements of both this Ordinance and Title 16 "Buildings and Construction" of the Village of Grafton Municipal Code have been met.
- C. **Site Plan Approval Required for Certificate of Occupancy.**
 - 1. If a Site Plan is a requirement of a zoning district, no person shall commence any use or erect any structure or obtain a Building Permit without first obtaining the approval of a Site Plan by the Plan Commission as set forth in this Ordinance, and no use shall be carried on, no structure erected or enlarged and no other improvement or construction undertaken except as shown on approved Site Plan. The remodeling of the interior of existing structures is exempt from the requirements of this Section.
 - 2. No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith; provided, that upon a finding by the Building Inspector that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard, the Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date, which date shall allow reasonable time for completion, upon posting a surety in conformance with the requirements of Section 19.06.0105 of this Ordinance to the Village Finance Director, in double the sum estimated by the Building Inspector to be needed to complete all required improvements, conditioned on completion of all required improvements prior to the date of expiration of the temporary Certificate of Occupancy.

3. Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for the completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the Village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.
 4. A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.
- D. **Application for a Certificate of Occupancy.** Written application for a Certificate of Occupancy for the use of vacant land, or for a change in a nonconforming use, as herein provided, shall be made to the Building Inspector.
- E. **Form of Certificate of Occupancy and Permanent Record.** Each Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all provisions of this Ordinance. A record of all Certificates of Occupancy shall be kept on file in the office of the Building Inspector and a copy shall be forwarded, on request, to any person having proprietary or tenancy interests in the building or land affected.
- F. **Certificate of Occupancy Not Required for Gas and Electric Utility Uses Issued a Certificate of Public Convenience and Necessity.** No Certificate of Occupancy shall be required for gas and electric utility uses which have been issued a Certificate of Public Convenience and Necessity pursuant to Section 196.491 of the Wisconsin Statutes as amended.

SECTION 19.07.0105 APPLICATIONS FOR SITE PLAN REVIEW

See the provisions set forth in Division 19.06.0100 of this Ordinance.

SECTION 19.07.0106 APPLICATIONS FOR ARCHITECTURAL REVIEW

See the provisions set forth in Division 19.06.0400 of this Ordinance.

SECTION 19.07.0107 APPLICATIONS FOR ZONING APPEAL

Applications for a Zoning Appeal shall include the following (Also see the provisions set forth in Division 19.08.0200 of this Ordinance):

- A. **Name and Address.** Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. **Plat of Survey.** For an appeal that involves a specific property, the Zoning Administrator may require a Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 19.07.0102 of this Ordinance for a Zoning Permit.
- C. **Questions to be Answered by the Applicant.** Items on the application to be provided in writing by the appellant or applicant shall include the following:
 1. Indication of the section(s) of the Ordinance being appealed.
 2. A statement regarding the appeal requested, giving distances and dimensions where appropriate; or, for an appeal of a decision of the Zoning Administrator or Building Inspector, the circumstances and appeal being requested.
 3. A statement of the reason(s) for the request.

4. A statement of the 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 which cause the hardship. *[Note: Economic hardship and self-imposed hardship are not grounds for the granting of a variance.]*
 5. Date of any previous application for an appeal and the disposition of the previous application (if any).
- D. **Additional Information.** Additional information as required by the Plan Commission, Village Engineer, Zoning Board of Appeals, Zoning Administrator, Building Inspector, or the Zoning Appeal Application Form.

SECTION 19.07.0108 APPLICATIONS FOR ZONING VARIANCE

Applications for a Zoning Variance shall include the following (Also see the provisions set forth in Division 19.08.0200 of this Ordinance):

- A. **Name and Address.** Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. **Plat of Survey.** The Zoning Administrator may require a Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 19.07.0102 of this Ordinance for a Zoning Permit.
- C. **Questions to be Answered by the Applicant.** Items on the application to be provided in writing by the appellant or applicant shall include the following:
 1. Indication of the section(s) of the Ordinance from which a variance is requested.
 2. A statement regarding the variance requested, giving distances and dimensions where appropriate.
 3. A statement of the reason(s) for the request.
 4. A statement of the 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 which cause the hardship. *[Note: Economic hardship and self-imposed hardship are not grounds for the granting of a variance.]*
 5. Date of any previous application for a variance and the disposition of the previous application (if any).
- D. **Additional Information.** Additional information as required by the Plan Commission, Village Engineer, Zoning Board of Appeals, Zoning Administrator, Building Inspector, or the Zoning Variance Application Form.

SECTION 19.07.0109 APPLICATIONS FOR MINOR ZONING VARIANCE

Applications for a Minor Zoning Variance shall include the following (Also see the provisions set forth in Division 19.08.0200 of this Ordinance):

- A. **Name and Address.** Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. **Photographs.** Two (2) photographs of the subject structure from different views.
- C. **Drawing.** If an existing structure, a drawing of the structure listing its size and dimensions and a site drawing or survey setting forth the location of the structure and its distance from lot lines and adjacent buildings on the property.
- D. **Questions to be Answered by the Applicant.** Items on the application to be provided in writing by the appellant or applicant shall include the following:

1. Indication of the section(s) of the Ordinance from which a minor variance is requested.
 2. A statement regarding the minor variance requested, giving distances and dimensions where appropriate.
 3. A statement of the reason(s) for the request.
 4. A statement of the 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 which cause the hardship. *[Note: Economic hardship and self-imposed hardship are not grounds for the granting of a variance.]*
 5. Date of any previous application for a minor variance and the disposition of the previous application (if any).
- E. **Additional Information.** Additional information as required by the Plan Commission, Village Engineer, Zoning Board of Appeals, Zoning Administrator, Building Inspector, or the Minor Zoning Variance Application Form.

SECTION 19.07.0110 APPLICATIONS FOR ZONING INTERPRETATION

Applications for an Interpretation by the Zoning Administrator shall include the following (Also see the provisions set forth in Division 19.08.0200 of this Ordinance):

- A. **Name and Address.** Name and address of the applicant.
- B. **Questions to be Answered by the Applicant.** Items on the application to be provided in writing by the appellant or applicant shall include the following:
 1. Indication of the section(s) of the Ordinance for which an interpretation from the Zoning Administrator is requested.
 2. A statement of the reason(s) for the request.
 3. Date of any previous application and the disposition of the previous application (if any).
- C. **Additional Information.** Additional information as required by the Zoning Administrator or Building Inspector.

SECTION 19.07.0111 APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS

Applications for a Certificate of Appropriateness for alterations in the architectural appearance of any structure within an HPO District shall include the following (Also see the provisions set forth in Sections 19.03.0315 and 19.07.0210 and Division 19.08.0400 of this Ordinance.):

- A. **Required Architectural Plans, Elevations, and Perspective Drawings.** Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of all proposed alterations. A color building elevation or perspective rendering of the exterior of the proposed building(s) shall be required for review by the Plan Commission for all types of structures. Said elevations and perspective drawings shall indicate the location and placement of all auxiliary building equipment such as heating, ventilating, and/or air-conditioning equipment. These drawings are to be drawn to a recognized architectural scale with the name of the project noted. Building plans shall be submitted with all detail drawn on each elevation. Plans drawn with partial building details indicated will be returned to the Applicant for redrafting.
- B. **Name and Address.** Name and address of the applicant.
- C. **Owner/Developer.** Owner's and/or developer's name and address.

- D. **Architect/Engineer.** Architect's and/or engineer's name and address.
- E. **Date.** Date of submittal of plans.
- F. **Scale.** Scale of drawings noted on each drawing.
- G. **Building Type, Size, and Location.** The type, size, and location of all structures with all building dimensions shown.
- H. **Height.** The height of building(s).
- I. **Exterior Materials Samples to be Provided.** Samples of exterior materials and their colors.
- J. **Additional Information May be Required.** Additional information and data that may be required by the Village Planner, Plan Commission, or Historic Preservation Commission may include, but not be limited to, the following upon request:
 - 1. Photographs from the site of adjacent neighboring structures and/or property.
 - 2. Detailed drawings of decorative elements of the building(s) or structure(s).
 - 3. Sectional building or site drawings drawn to a recognized engineering or architectural scale.

SECTION 19.07.0112 OTHER REQUIRED PERMITS

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or local agencies. This includes, but is not limited to, a water use permit pursuant to Chapters 30 or 31 of the Wisconsin Statutes, a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act, and highway access permits.

DIVISION 19.07.0200 ZONING ORDINANCE TEXT AND ZONING MAP CHANGES AND AMENDMENTS

SECTION 19.07.0201 AUTHORITY

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Village Board may, by ordinance, change the district boundaries or amend, change, or supplement the regulations established by this Ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

SECTION 19.07.0202 INITIATION

A change or amendment may be initiated by the Village Board, the Plan Commission, or by a petition of one (1) or more of the owners or lessees with signed written permission of the property owner(s) of property within the area proposed to be changed.

SECTION 19.07.0203 PETITIONS

Petitions for any change in the district boundaries or amendments to the regulations shall be filed with the Village Clerk (or other Village Board authorized agent), shall describe the premises to be rezoned or the regulations to be amended, shall list the reasons justifying the petition, shall specify the proposed use, and shall include the following, except where the petition is initiated by the Village Board: (Ord. 029, Series 2001, Part 1)

- A. **Owners' Names and Addresses Required.** Name, address, and telephone number of the petitioner for a zoning amendment and agent; and tax key numbers, names, and addresses of all property owners of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
- B. **Plot Plan Required.** Plot plan drawn to scale of one inch equals one hundred feet (1"=100') 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 two hundred (200) feet of the area proposed to be rezoned.
- C. **Description of Requested Zoning District Boundary Change or Zoning Ordinance Text Amendment Required.** The petitioner shall provide a complete legal description of the property for which a change in zoning is requested. For a proposed Ordinance text amendment, the petitioner shall provide a copy of the text proposed to be changed and the new text being proposed by the petitioner.
- D. **General Description of Proposed Development Required.** A general description of the proposed development of the property.
- E. **Site Plan Required.** A Site Plan of the proposed development of the property meeting the requirements set forth under Division 19.06.0100 of this Ordinance.
- F. **Landscape Plan Required.** A Landscape Plan meeting the requirements set forth under Division 19.07.0300 of this Ordinance. Any required bufferyard easements shall be so noted on the Landscape Plan.
- G. **Natural Resource Protection Plan Required.** If natural resource features are present on the subject property, as defined in Divisions 19.04.0100 and 19.09.0100 of this Ordinance, a Natural Resource Protection Plan meeting the requirements set forth in Division 19.06.0200 of this Ordinance.
- H. **Site Intensity and Capacity Calculations Required.** Site Intensity and Capacity Calculations meeting the requirements set forth in Division 19.03.0500 and in the prescribed format set forth in the Village's application form.
- I. **Architectural Plans Required.** Architectural Plans meeting the requirements set forth under Division 19.06.0400 of this Ordinance. All single-family dwellings on lots (and their associated accessory structures, except in PUD Districts), two-family dwellings on lots (and their associated accessory structures, except in PUD Districts), and agricultural structures (in the A-1, A-2, and A-3 Districts only) are deemed exempt from the requirements of architectural review.
- J. **Additional Information May be Required.** Additional information may be required by the Village Engineer, Zoning Administrator, Village Planner, Plan Commission, or the Village Board.

SECTION 19.07.0204 REVIEWS AND RECOMMENDATIONS

The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, be modified, or be denied. The recommendation shall be made in writing to the Village Board.

SECTION 19.07.0205 PUBLIC HEARINGS

The Plan Commission, shall hold a public hearing upon each proposed change or amendment giving notice of the date, time, place of such hearing, and the matter to be presented at the hearing by publication in the Village of a Class 2 notice under Chapter 985 of the Wisconsin Statutes. Notice of the public hearing shall be mailed to all parties-in-interest at least ten (10) days before the hearing. Parties-in-interest shall be defined as the petitioner, the clerk of any municipality within one thousand (1,000) feet of any lands included in the petition, and the owners of all lands included in the petition and all lands lying within two hundred (200) feet of lands included in the petition. The Village Clerk (or other Village Board authorized agent) shall set the date for the public hearing(s). (Ord. 005, Series 2004, Part 3)

SECTION 19.07.0206 VILLAGE BOARD'S ACTION

Following such hearing and after careful consideration of the Plan Commission's recommendations, the Village Board shall take action on the proposed change or amendment.

SECTION 19.07.0207 FLOODLAND DISTRICT BOUNDARY CHANGES

See procedures as specified under the provisions of Title 21 "Floodplain Zoning" of the Village of Grafton Municipal Code as amended.

SECTION 19.07.0208 SHORELAND AND WETLAND DISTRICT BOUNDARY CHANGES

See procedures as specified under the provisions of Title 22 "Shoreland-Wetland Zoning" of the Village of Grafton Municipal Code as amended.

SECTION 19.07.0209 PUD PLANNED UNIT DEVELOPMENT DISTRICT PROCEDURES

- A. **Pre-Application Conference.** Before official submittal of an application for a PUD District, the applicant shall file an application to meet with the Plan Commission for a preliminary discussion on the scope and proposed nature of the contemplated development.
- B. **Application for a PUD District.** Following the pre-application conference, the owner or his agent may file an application with the Village Clerk (or other Village Board authorized agent) for an amendment to the Zoning Ordinance text and map for the creation of a PUD District pursuant to the requirements of Division 19.07.0200 of this Ordinance. Such application shall be accompanied by all required fees. In addition, the following materials shall be attached to the application for a PUD District:
 - 1. A statement describing the relationship of the PUD District to the Village of Grafton's Comprehensive Plan, detailed neighborhood or planning district plans, the general character of and the uses to be included in the proposed PUD District, and the following:
 - a. Total area to be included in the PUD District, area of open space, residential density computations, proposed number of dwelling units and number of bedrooms per dwelling unit, population analysis, availability of or requirements for municipal services, and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - c. An outline of the organizational structure of a property owner's or management's association proposed to be established for providing necessary private services.
 - d. A Site Plan that meets all of the Site Plan requirements set forth in Division 19.06.0100 of this Ordinance including, but not limited to: requirements for the submission of a Landscape Plan meeting the requirements set forth under Division 19.06.0300 of this Ordinance; architectural plans meeting the requirements of Division 19.06.0400 of this Ordinance; a Lighting Plan meeting the requirements of Division 19.05.0400 of this Ordinance; and, if natural resource features are present on the subject property, as defined in Divisions 19.04.0100 and 19.09.0100 of this Ordinance, a Natural Resource Protection Plan meeting the requirements set forth in Division 19.06.0200 of this Ordinance.
 - e. Site Intensity and Capacity Calculations meeting the requirements set forth in Division 19.03.0500 and in the prescribed format set forth in the Village's application form.

- C. **Referral to Plan Commission.** The application for a PUD District shall be referred to the Plan Commission for its review and recommendation to the Village Board, including any additional conditions or restrictions that it may deem necessary or appropriate.
- D. **Public Hearing Required.** The Plan Commission shall hold a public hearing pursuant to the provisions of Section 19.07.0205. Notice for such hearing shall include reference to the various plans required to be filed with the requested zoning change. The Village Clerk (or other Village Board authorized agent) shall set the date for the public hearing(s). (Ord. 005, Series 2004, Part 3)
- E. **Basis for Approval.** No PUD District approval shall be granted unless the Plan Commission shall find that the PUD District is appropriate in the location proposed based upon its consideration of the following criteria:
1. **Intent to Meet Construction Schedule.** That the applicant for the proposed PUD District has demonstrated that applicant intends to meet the time schedule as set forth in the proposed PUD District application following the approval of the change in zoning districts and that the development will be carried out according to the construction schedule satisfactory to the Village.
 2. **Consistency with Zoning Ordinance and Comprehensive Plan Required.** That the proposed PUD District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Ordinance; is in conformity with the Comprehensive Plan, and elements thereof, for community development; is in conformity with, or serves to implement, the appropriate detailed planning district or neighborhood unit development plan, including amendments thereto; would not be contrary to the general welfare and economic prosperity of the Village or the immediate neighborhood; and that the benefits and improved design of the resultant development justifies the establishment of a PUD District.
 3. **Common Open Space.** Common open space consisting of land unoccupied by nonrecreational structures, buildings, streets, rights-of-way, minimum required lot areas, and automobile parking lots and designed and intended for the use and enjoyment of residents of a PUD District shall be provided in each PUD District. Common open space may contain structures for recreational use.
 4. **Public Facilities and Services.** The extent to which the proposed use will be served adequately by, or will provide for, essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
 5. **Adequacy of Public Infrastructure.** The adequacy of the public infrastructure to support the proposed use at the proposed location. In considering this use criteria, the Plan Commission shall consider not only the proposed uses, but other proposed rezonings and the zoning of vacant properties to determine both the individual and cumulative impacts.
 6. **Community Need.** The extent of the community need for the proposed use at the proposed location in light of existing and proposed uses of a similar nature in the area, and the need to provide or maintain a proper mix of uses within the Village and within the immediate area of the proposed use. The Plan Commission shall not recommend Village Board approval of any PUD District unless it can find that the proposed use in the proposed location will not result in an over concentration either of a particular use within the Village or within the immediate area of the proposed use.
 7. **Effects of the Proposed Use.** The extent to which the proposed use at the proposed location will, or may, have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare.
 8. **Preservation and Enhancement of Neighboring Land Uses.** The extent to which the proposed use and its design and landscaping will enhance and protect the existing character of neighboring land uses, if any, or enhance the community character of the Village.
 9. **Pedestrian and Public Transportation Linkages.** The extent to which the proposed use will be served by, or will provide, proper pedestrian and public transportation linkages both within the immediate area of

the development and with other parts of the Village, neighboring communities, or County.

10. **Adequacy of Public and Private Open Space.** The extent to which the proposed use will be served by, or will provide, adequate public and private open space both in the immediate vicinity of the proposed use and throughout the Village. The Plan Commission shall, in considering this criteria, consider the adequacy of such open spaces both as to site design and buffering and as to the open space needs of the permanent or transient population likely to be generated by the proposed use.
11. **General Standards for PUD Districts.** No PUD District shall be recommended or granted unless the applicant shall establish that the proposed development will meet each of the following standards as well as all those standards set forth under Division 19.03.0400 of this Ordinance:
 - a. **Unified Ownership Required.** The entire property proposed for planned unit development treatment shall be in single ownership or under such unified development control (by using deed restrictions, protective covenants, or property owners' association, as applicable) to ensure that the entire property will be developed as a unified whole. All owners of the property shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any individual lot or parcel within a PUD District shall be deemed a violation as to all owners and of all lots or parcels.
 - b. **Covenants and Restrictions.** All covenants, deed restrictions, easements, and similar restrictions to be recorded concerning the PUD District shall provide that they may not be modified, removed, or released without the express consent of the Village Board.
 - c. **Open Space.**
 - 1) **Amount, Location, and Use of Open Space.** The failure of a proposed PUD District to provide adequate open space shall be considered an indication that it has not satisfied the objectives for which such PUD District developments may be approved pursuant to this Ordinance. When open space is provided in a PUD District, the amount and location of such open space shall be consistent with its intended function as set forth in this Ordinance, the application, and PUD District plans. No such open space shall be used for the construction of any structure or improvement except such structures and improvements as may be approved by the Village as appropriate to the intended leisure and recreational uses for which such open space is intended.
 - 2) **Preservation of Open Space Required.** Adequate safeguards, including recorded covenants and deed restrictions, shall be provided to prevent the subsequent use of open space for any use, structure, improvement, or development other than that shown on the Village approved PUD District plans. The covenants and restrictions must be permanent, not be for a given period of years, and must run with the land. Such covenants and deed restrictions may provide that they may be released, but only with the approval of the Village Board.
 - 3) **Ownership and Maintenance.** The PUD District plans shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance, and operation according to predetermined standards and to ensure that remedial measures will be available to the Village if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the subject PUD District or the Village.
 - 4) **Property Owners' Association.** When the requirements of the preceding subparagraph 3) above are to be satisfied by the ownership or maintenance of such open space or improvements by a property owners' association, such association shall meet each of the following standards:

- a) That the bylaws and rules of the property owners' association and all declarations, covenants, and restrictions to be recorded must be approved as part of the PUD District plans before becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this Ordinance.
 - b) That the property owners' association must be established and all declarations, covenants, and deed restrictions must be recorded before the sale of any property within the area of the PUD District designated to have the exclusive use of the proposed open space or improvements.
 - c) That the property owners' association must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to the property owners' association.
 - d) That membership in the property owners' association must be mandatory for each property owner of the PUD District and any successive property owner having a right to the use or enjoyment of such open space or improvements.
 - e) That every property owner having a right to the use or enjoyment of such open space or improvements must pay its pro rata share of the cost of the property owners' association by means of an assessment to be levied by the property owners' association that meets the requirements for becoming a lien on the property according to the State statutes.
 - f) That the property owners' association must have the right to adjust the assessment to meet changed needs. The membership vote of the property owners' association required to authorize such adjustment shall not be fixed at more than two-thirds of the property owners' association members voting on the issue.
 - g) The Village must be given the right, after ten (10) days' written notice to the property owners' association, to perform any maintenance or repair work that the property owners' association has neglected to perform, to assess the property owners' association membership for such work and to have a lien against the property of any member failing to pay such assessment. For this purpose alone, the Village shall have all the rights and powers of the property owners' association and its governing body under the agreements and declarations creating the property owners' association.
- d. **Landscaping and Perimeter Treatment Required.** Any area of a PUD District not used for structures or circulation elements shall be landscaped meeting all landscaping provisions of this Ordinance or otherwise improved according to the provisions of this Ordinance. The perimeter of the PUD District shall be treated to ensure compatibility with surrounding uses by means such as the provision of compatible uses and structures, setbacks, screening, or natural or manmade bufferyards.
- e. **Private Streets and/or Drives.** If recommended by the Plan Commission and approved by the Village Board, private streets may be allowed. If so approved, such private streets and/or drive shall meet all Village construction standards for private streets and/or drives. No such private streets and/or drives shall be approved except upon the condition that they shall be owned and maintained by a property owners' association meeting the requirements set forth in this Section.
- g. **All New Utilities to Be Placed Underground.** All new utility lines, including electric, cable television, and telephone lines shall be installed underground.

12. **General Site Design Standards.** No PUD Planned Unit Development District approval shall be granted unless the Plan Commission shall find that the plans of the proposed use address and are consistent with the following standards:
- a. **Building Orientation.** The orientation and placement on the lot of buildings and other structures shall take into consideration such matters as sun and wind direction; relation to surrounding uses and development; relation to nearby natural and manmade features, amenities and vistas; and proper circulation both on-site and off-site.
 - b. **Architectural Design.** The extent to which the design and architecture of buildings and other structures on the site are compatible with nearby developments considering such elements, as scale, height, and mass; proportion and directional expression of facades; spacing and relation between buildings; and materials, texture, color, and design elements employed. Division 19.06.0400 of this Ordinance provides further guidelines for the review of architectural design. (Ord. 008, Series 2001, Part 26).
 - c. **Landscaping, Streetscape, and Bufferyards.** Landscaping shall be integrated into building arrangements, topography, off-street parking, and bufferyard requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plant sculpture, open area, and the use of building and paving materials in an imaginative manner. Bufferyard shall be located around the perimeter of the site to minimize the off-site impacts of headlight glare, noise, light from structures and open areas and the movement of people and vehicles. Bufferyard may consist of fencing, evergreens, shrubs, bushes, deciduous trees, or combinations thereof to achieve the intent of the PUD District. Division 19.05.0300 of this Ordinance provides further guidelines for the review of landscaping and bufferyards.
 - d. **Signs.** Signs shall be designed to be aesthetically pleasing, harmonious with other signs on the site, and located to achieve their purpose without constituting hazards to vehicles and pedestrians. All signage in a PUD District shall be reviewed by the Plan Commission and approved by the Village Board.
 - e. **Building Bulk.** The height, mass, and floor area ratio of buildings proposed shall be assessed as to consistency with existing development in the area.
 - f. **Vehicular and Pedestrian Access and Circulation.** Pedestrian and vehicular traffic movement within and adjacent to the site shall be safe and efficient with particular emphasis on the provision and layout of sufficient parking areas, off-street loading and unloading, and the safe and efficient movement of people, goods, and vehicles from access streets, within the site, and between buildings and vehicles. Adequate provisions shall be made to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The proposed site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. A traffic study prepared by a Traffic Safety Engineer may be required as determined by the Plan Commission. Off-street parking spaces and areas are to be usable and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles, including emergency vehicles, a rapid and safe ingress and egress to the site. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances of the Village.
 - g. **Lighting.** Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Directional lights shall be arranged to minimize glare and reflection on adjacent properties. Lighting standards shall be a type approved by the Plan Commission based, in part, upon the lighting standards set forth in Division 19.05.0400 of this Ordinance.
 - h. **Environmental Considerations.** Environmental elements relating to soil erosion, preservation of trees, protection off water courses, lakes, wetlands, and other resources; noise; topography; and animal life shall be reviewed and the design for the PUD District shall minimize any adverse

impact on these elements. Division 19.03.0500 and Part 4 of this Ordinance provides further guidelines for the protection of natural resources.

- i. **Adverse Impacts on Surrounding Property(s).** The use shall not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities, facilities, and other matters affecting the public health, safety, and general welfare and shall be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property or properties.
 - j. **Amenities and Services.** The proposed use shall provide on-site amenities and services that are consistent with the nature and intensity of the proposed use and the availability of amenities and services in the immediate area of the site.
 - k. **Other Standards.** The PUD District must not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare. The Plan Commission in making its recommendations, and the Village Board in making its determination, shall further find that:
 - 1) The proposed site shall be provided with adequate drainage facilities for surface and storm water.
 - 2) The proposed development shall not impose any undue burden on public services and facilities, such as fire and police protection.
 - 3) Water, sanitary sewer, and storm sewer facilities shall be provided.
 - 4) The entire tract or parcel of land to be included in a PUD District shall be held under single ownership. If there are two (2) or more owners, the application for such PUD District shall be filed jointly by all of such owners. The PUD District shall be considered as one (1) tract, lot, or parcel, and the legal description must define said PUD District as a single parcel, lot, or tract and so recorded with the Ozaukee County Register of Deeds. The PUD District shall not be subdivided unless no development occurs and appropriate steps and procedures are taken to vacate the district either by the owners or the Village Board.
13. **Standards for Residential PUD Districts.** For proposed residential PUD Districts:
- a. That such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the neighborhood.
 - b. That the total average residential density within the PUD District will be compatible with the Village of Grafton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plan prepared for the area.
 - 1) That the population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - 2) That adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation or by dedication to the public.
 - c. That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - d. That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the

property values of the surrounding neighborhood.

14. **Standards for Commercial and Institutional PUD Districts.** For proposed commercial PUD Districts:
 - a. That the economic practicality of the proposed development can be justified.
 - b. That the proposed development will be adequately served by off-street parking and truck service facilities.
 - c. That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - d. That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood, and will be compatible with the Village of Grafton Comprehensive Plan.
 - e. That the total average intensity of development within the PUD District will be compatible with the Village of Grafton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plans prepared for the area.

15. **Standards for Industrial PUD Districts.** For proposed industrial PUD Districts:
 - a. That the operational character, physical plant arrangement, architectural design of buildings, and the design recommendations of the Village of Grafton Comprehensive Plan will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
 - b. That the proposed development will have adequate provision for off-street parking and truck service areas and will be adequately served by rail or highway facilities.
 - c. That the proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
 - d. That the total average intensity of development within the PUD District will be compatible with the Village of Grafton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plans prepared for the area.

16. **Standards for Mixed-Use PUD Districts.** For mixed-use PUD Districts:
 - a. That the proposed mixture of uses produces a unified composite that is compatible within itself which, as a total development entity, is compatible with the surrounding neighborhood and consistent with the standards and objectives of the Comprehensive Plan.
 - b. That the various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use character.
 - c. That the total average intensity of development within the PUD District will be compatible with the Village of Grafton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plans prepared for the area.

17. **Additional Standards May be Required to be Met.** The Plan Commission may recommend, and the Village Board may adopt by conditions and restrictions for PUD Planned Unit Developments that specify permitted uses, set bulk regulations and density standards for lot coverage and dwelling with size and distribution, yard setbacks and design guidelines. Conditions and restrictions adopted to govern any PUD

Planned Unit Development may include nonstandard or non-uniform requirements, regulations and provisions recommended by the Plan commission and approved by the Village Board. Such non-standard requirements, regulations and provisions shall be designed to ensure proper development and appropriate operation and maintenance of specific developments on specific sites. (Ord. 005, Series 2004, Part 5)

18. **Determination.**

- a. **Village Board Action.** The Village Board, after due consideration, may deny the application, approve the application as submitted, or approve the application subject to additional conditions and restrictions.
- b. **Village Board Approval.** The Village Board approval of an application for rezoning to the PUD District shall be based on and include as conditions thereto the building, site, and operational plans for the development as approved by the Village Board.
- c. **Subsequent Change or Addition to the Plans or Use.** Any subsequent change or addition to the plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission such change or addition constitutes a major change to the original plan, a public hearing before the Village Board shall be required and notice thereof be given pursuant to the provisions of this Division, and said proposed alterations shall be submitted to the Village Board for approval. The Village Clerk (or other Village Board authorized agent) shall set the date for the public hearing(s). The Plan Commission shall find that any modification therein, including modifications in location, design, and number of buildings; roadways; and utilities shall be considered a major change if such modification:
 - 1) Changes the concept or intent of the approved plan;
 - 2) Increases the gross residential density or intensity of use;
 - 3) Decreases the total area set aside for common open space or deed restricted open space;
 - 4) Changes by more than five (5) percent in the gross floor area for a nonresidential use; or
 - 5) Increases by more than five (5) percent the total ground area covered by buildings or structures.

19. **Expiration of Approved PUD Planned Unit Development District Plans.** If the applicant does not commence construction within an approved PUD District within one (1) year after Village Board approval of the PUD District plans, or complete construction within three (3) years of the approved PUD District plans, the approved plans for the PUD District shall be considered null and void. A new PUD District application and required plans shall be required to be approved by the Village under the procedures set forth in this Section. The provisions of this Paragraph shall only apply to those PUD Districts approved after the effective date of this Ordinance.

SECTION 19.07.0210 HISTORIC STRUCTURES AND HISTORIC SITES AND HPO HISTORIC PRESERVATION OVERLAY DISTRICT DESIGNATION AND PROCEDURES

A. **Designation of Historic Structures and Historic Sites.**

1. **Historic Preservation Commission Recommendation to Village Board.** The Historic Preservation Commission may recommend to the Village Board the designation of historic structures and historic sites, or rescission of such designation, after application of the criteria set forth in Chapter 2.35 of the Grafton Municipal Code. (Ord. 025, Series 2008, Part 8).

2. **Public Hearing and Village Board Action On Historic Structures and Historic Sites.** The Village Board, upon receipt of the recommendation from the Historic Preservation Commission for the designation of historic structures and historic sites, or the rescission of such designation, shall hold a public hearing. The Village Clerk (or other Village Board authorized agent) shall set the date for the public hearing(s). At least ten (10) days before such public hearing, the Village Clerk (or other authorized agent) shall notify the owners of record, as listed in the office of the Village Assessor, who are owners of property in whole or in part lying immediately adjacent to the boundaries of the property affected. Said notification shall be via regular mail. The Village Board may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. After the public hearing, the Village Board may designate the property as either a historic structure, or a historic site, or rescind the designation. No designation shall be made without the consent of the property owner or property owners of record title. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the Village Clerk (or other Village Board authorized agent), Building Inspection Department, Plan Commission, and the Village Assessor. The Village Board shall cause the designation or rescission of historic structures and historic sites to be recorded, at the owner's expense, in the Ozaukee County Register of Deeds Office. (Ord. 001, Series 2005, part 1)
- B. **Creation of HPO District.** For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the Village to be designated by the Village Board as HPO Districts and shall prepare a historic preservation plan for each such designated area. An HPO District may be designated for any geographic area of particular historic, architectural or cultural significance to the Village, after application of the criteria set forth in Chapter 2.35 of the Grafton Municipal Code. Each historic preservation plan prepared for or by the Historic Preservation Commission for an HPO District shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives. (Ord. 025, Series 2008, Part 8).
1. **Historic Preservation Commission to Recommend Designation of HPO Districts to Village Board.** The Historic Preservation Commission may recommend to the Village Board the designation of HPO Districts, or rescission of such designations, after application of the criteria set forth in Chapter 2.35 of the Grafton Municipal Code. (Ord. 025, Series 2008, Part 8).
 2. **Village Board Action on the Designation of HPO Districts by the Historic Preservation Commission.** The Village Board, upon receipt of the recommendations from the Historic Preservation Commission for the designation of HPO Districts, or the rescission of such designation, shall hold a public hearing. The Village Clerk (or other Village Board authorized agent) shall set the date for the public hearing(s). Notice of the time, place, and purpose of the public hearing shall be sent by the Village Clerk (or other Village Board authorized agent) to the Village Board and the owners of record located with the HPO District, as listed in the office of the Village Assessor, who are owners of the property within the proposed HPO District or are situated in whole or in part within two hundred (200) feet of the boundaries of the proposed HPO District. Said notice is to be sent at least ten (10) days before the date of the public hearing. Following the public hearing, the Village Board shall either designate or reject the HPO District. No designation or rescission of a designation of individual properties within the HPO District shall be made without the consent of the property owner or property owners of record title. Designation of the HPO District shall constitute adoption of the plan prepared for that HPO District and direct the implementation of said plan.
- C. **Interim Control.** No Building Permit shall be issued by the Building Inspector for exterior alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated HPO District from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission and Village Board action unless such alteration, removal or demolition is authorized by formal resolution of the Village Board as necessary for public health, welfare, or safety. In no event shall the delay due to determination of final disposition of the nomination for said Building Permit issuance be for more than one hundred eighty (180) days.

D. **Regulation of Construction, Reconstruction, Alteration and Demolition.**

1. **Certificate of Appropriateness Required.** No owner or person in charge of a historic structure, historic site or structure within a HPO District shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Also, unless such Certificate of Appropriateness has been granted by the Historic Preservation Commission, the Building Inspector shall not issue a permit for any such work.
2. **Certificate of Appropriateness Approval.** Upon filing of any application and applicable fee for a Certificate of Appropriateness with the Historic Preservation Commission, the Historic Preservation Commission shall approve the application unless:
 - a. For a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
 - b. For the construction of a new improvement upon a historic site, or within a HPO District, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
 - c. For any property in a HPO District, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said HPO District;
 - d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the Village and state;
 - e. For a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
3. **Consistency with the Character and Features of the Property or the HPO District.** If the Historic Preservation Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or HPO District, it shall issue the Certificate of Appropriateness. The Historic Preservation Commission shall make this decision within forty-five (45) days of the filing of the application.
4. **Other Permits and Approvals Required.** The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the Village. A Building Permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
5. **Maintenance and Repairs.** Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness if the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and if the work does not change the exterior appearance of the structure or site and does not require the issuance of a Building Permit.
6. **Appeals.** In addition, if the Historic Preservation Commission fails to issue a Certificate of Appropriateness, the Historic Preservation Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this Ordinance. Should the Historic Preservation Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines set forth in this Ordinance, the applicant may appeal such decision to the Zoning Board of Appeals per Section 19.07.0107 of this Ordinance.

- E. **Recognition of Historic Structures, Sites and HPO Districts.** When a historic structure, site or HPO District has been properly designated, the Historic Preservation Commission, in cooperation with the property owner, may cause to be prepared and erected on such property at the Village's expense, a suitable plaque declaring that such property is a historic structure, site or HPO District.

SECTION 19.07.0211 PROTEST

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership voting on the proposed change.

SECTION 19.07.0212 SUCCESSIVE APPLICATIONS FOR CONDITIONAL USE PERMITS, ZONING DISTRICT CHANGE, OR AMENDMENT TO THE ZONING REGULATIONS

- A. **Second Applications Without New Grounds Barred.** Whenever any application filed for a Conditional use Permit, zoning district change, or amendment to the zoning regulations pursuant to this Ordinance has been finally denied on its merits, a second application seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought unless in the opinion of the Zoning Administrator, Village Board, or Plan Commission before which it is brought there is substantial new evidence available or a mistake of law or fact significantly affected the prior denial.
- B. **New Grounds to Be Stated.** Any such second application shall include a detailed statement of the grounds justifying consideration of such application.
- C. **Summary Denial With or Without Hearing.** Any such second application may be denied by the Zoning Administrator summarily, and without hearing, on a finding that no grounds appear that warrant a new hearing. In any case where such application is set for hearing, the applicant shall be required to establish grounds warranting reconsideration of the merits of its application before being allowed to offer any evidence on the merits. Unless such grounds are established, the application may be summarily dismissed for such failure unless approved by a two-thirds (2/3) vote of the Plan Commission.
- D. **Exception.** Whether or not new grounds are stated, any such second application filed more than eighteen (18) months after the final denial of a prior application shall be heard on the merits. The applicant shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. Without such evidence, it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application.
- E. **Appeal of Decisions Made to Dismiss Applications.** Decisions made to dismiss applications based upon this Section may be appealed to the Zoning Board of Appeals.

DIVISION 19.07.0300 ZONING ADMINISTRATIVE FEES

SECTION 19.07.0301 ADMINISTRATIVE FEES

As a condition of the review of any application for any type of permit as required under the provisions of this Ordinance, the applicant shall pay to the Village Finance Director of the Village of Grafton all fees as required by the Village of Grafton "Fee Schedule," and at the times specified by Title 3 "Revenues and Finances" of the Village of Grafton Municipal Code, before being entitled to any approvals or permits. No application filed pursuant to this Ordinance shall be considered complete unless and until all fees due pursuant to this Ordinance have been paid. Every approval granted and every permit issued pursuant to this Ordinance, whether or not expressly so conditioned, shall be deemed to be conditioned upon payment of the required fees. The failure to pay any such fee fully when due shall be grounds for the Village of Grafton to refuse to process, or to continue to process, an application and to deny or revoke any permit or approval sought or issued with respect to the land or development to which the unpaid fee(s) relate.

DIVISION 19.07.0400 VIOLATIONS, PENALTIES, AND REMEDIES

SECTION 19.07.0401 VIOLATIONS

- A. **Unlawful to Use or Improve Any Structure or Land, or to Use Water or Air in Violation of Any Provisions of This Ordinance.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any provisions of this Ordinance. In case of violation, the Village Board, the Zoning Administrator, the Village Attorney, the Plan Commission or any property owner who would be specifically damaged by such violation, may begin appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed.
- B. **Actions and Proceedings to Enjoin Violations.** The Village of Grafton may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes or Wisconsin Administrative Code.
- C. **Violations of Approved Plans or Conditions of Plan Approval.** Any violation of a Site Plan, Landscape Plan, Natural Resource Protection Plan, Architectural Plan, Lighting Plan, Grading Plan, Stormwater Management Plan, Utility Plan, or other plans approved by the Village under division 19.06.0100, shall be considered a violation of this ordinance. Any violation of conditions of Village approval of said plans, a Conditional Use Permit, a Variance or a Planned Unit Development shall also be considered a violation of this Ordinance. All such violations to plans and conditions may be subject to the penalties and remedies specified in Section 19.07.0402. (Ord. 010, Series 2002, Part 20)

SECTION 19.07.0402 PENALTIES AND REMEDIES

- A. **Double Fee.** A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- B. **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Village Board, the Zoning Administrator, the Building Inspector, or the Village Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
- C. **Forfeiture and Imprisonment.** Any person, firm, or corporation who violates or fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than two-hundred dollars (\$200.00) nor more than one thousand (\$1,000)_dollars plus the costs of prosecution for each offense. (Ord. 032, Series 2000)
- D. **Separate Offense.** Each day a violation exists or continues shall constitute a separate offense.
- E. **Injunctive Relief.** In addition to the above described fines, the Village Board or its agent shall have the power to institute appropriate action for injunctive relief to prevent persons, firms, or corporations from acting in violation of the provision of this Ordinance.