TOWN OF DELAFIELD PLAN COMMISSION MEETING
Tuesday, February 5, 2019, 7:00 p.m.
Town of Delafield Town Hall
W302 N1254 Maple Avenue, Delafield, WI 53018

AGENDA

1. Call to Order and Pledge of Allegiance

2. Approval of the minutes of December 4, 2018

3. Communications (for discussion and possible action): None

4. Unfinished Business:
   A. Town of Delafield, Re: Consideration and possible action on revisions to the proposed amendments to the Town Zoning Code (Chapter 17) and Land Division and Development (Chapter 18) remanded to the Plan Commission for review and recommendation (tabled 12/4/18).

5. New Business:
   A. Jacob Stoflet, Edward Jones Investments, Re: Consideration and possible action on a request for approval of his plan of operation and site plan for operation of an Edward Jones office located at W307 N1497 Golf Road, Suite 101 (Ridgepoint Centre).
   B. Jacob Stoflet, Edward Jones Investments, Re: Consideration and possible action on a request for approval of site signage for operation of an Edward Jones office located at W307 N1497 Golf Road, Suite 101 (Ridgepoint Centre).
   C. Eric Larson, Municipal Law & Litigation Group, S.C., Re: Consideration and response to Eric Larson to draft necessary documents that would update the Town’s telecommunications ordinance and right-of-way regulation ordinance in accordance with the new Federal Communications Commission (FCC) regulations for telecommunications facilities.
   D. Waukesha County Department of Parks and Land Use, Consideration and response to Waukesha County regarding proposed modifications to their Shoreland & Floodland Protection Ordinance.

6. Discussion: None

7. Announcements and Planning Items: Next meeting- March 5, 2019

8. Adjournment

Mary T. Elsner, Town Clerk

The Plan Commission may take action on any item on the agenda. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Mary Elsner, Town Clerk, at W302 N1254 Maple Avenue, Delafield, WI 53018-2117. This agenda is for informational purposes only. 1/31/19

W302N1254 Maple Avenue  Delafield, Wisconsin 53018-2117  Phone: 262-646-2398  Fax: 262-646-8687
www.townofdelafield.org
Plan Commission Report for February 5, 2019

Edward Jones Investments
Agenda Item No. 5. A.

Applicant: Jacob Stoflet, Edward Jones Investments
Owner, Ridgepoint Center, LLC d/b/a Luther Group, LLC

Project: Edward Jones Investments

Requested Action: Approval of site plan and plan of operation

Zoning: B-1/Restricted Business

Location: W307 N1497 Golf Road, Suite 101 (Ridgepoint Centre)

Report

Background: Under Chapter 17.03.1.B.3 of the Town Code, the Town issued a temporary occupancy permit to the applicant, Mr. Jacob Stoflet of Edward Jones Investments, to start offering professional services out of the subject location on December 20, 2019 pending issuance of a regular permit.

Intent and permitted use: Per Chapter 17.04.5.J.1 of the Town Code, the intent of the B-1 business district is to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood and the character, appearance and operation of which are compatible with the character of the surrounding area. Per Chapter 17.04.5.J.2 of the Town Code, professional service offices are a permitted use in the B-1 district.

Application information: The applicant has provided an application including a site plan and plan of operation for Plan Commission approval in accordance with Chapter 17.03.1.C of the Town Code. The information in the application is summarized below.

1. Edward Jones will be operating in an office manner and serving an average of 3 to 4 clients per day by advising them on financial investments and retirement planning. There will only be one client appointment at any given time and each appointment will last between 30 minutes to 2 hours.

2. The proposed business would be operated by financial advisor, Jacob Stoflet. The lease would be corporately held with the Edward Jones home office and the property owner.

3. The applicant will be using 1,150 square feet of the available space. The attached site plan shows where the business will be located within the building.

4. The plan of operation states that Mr. Stoflet would initially employ 2 full-time staff including himself as the financial advisor and one branch office administrator. As the financial advisor grows his business, he may expand to 2 branch office administrators and may also elect to host a new financial advisor in his office for a temporary basis of 12-24 months, until the hosted advisor finishes his/her program and finds an office of his/her own.
5. Regular business days were noted as Monday through Friday and occasionally on weekends. Regular business hours were noted as 8am until 5pm with occasional evening meetings lasting no later than 9pm. These hours are compatible with the other businesses in Ridgepoint Centre.

6. A grand opening, open house, and quarterly seminars would be scheduled to take place outside of regular business hours.

7. There will be no outside material storage or outside events.

8. This business will not be selling or distributing any physical products.

9. The building shares 70 parking spaces. The applicant anticipates client parking in the two spaces provided directly in front of the office and up to four employee parking in the spaces directly in back of the office as shown on the site plan. Special events, as noted in item 6 above, may require up to 14 cars outside of regular business hours for seminars, and up to 17 cars outside of regular business hours for a grand opening and open house. See attached email dated 12/17/18 from Owner (Andy Fishler, Luther Group) indicating that the proposed parking is plenty adequate.

10. Signage for the facility is addressed under Plan Commission agenda item 5.B.

**Staff Recommendation:**

The proposed use is permitted in the B-1 zoning district, and the use is compatible with the other businesses located within the building. The plan of operation is similar to other operations on site.

Subject to comments from the Plan Commission, I recommend that the Plan Commission approve the site plan and plan of operation for Edward Jones Investments.

Kristen Belan, Assistant Town Engineer on behalf of Tim Barbeau, Town Engineer
January 31, 2019
Plan Commission Report for February 5, 2019

Edward Jones Investments
Agenda Item No. 5. B.

Applicant: Jacob Stoflet, Edward Jones Investments, Owner, Ridgepoint Center, LLC d/b/a Luther Group, LLC

Project: Edward Jones Investments

Requested Action: Approval of site signage

Zoning: B-1/Restricted Business

Location: W307 N1497 Golf Road, Suite 101 (Ridgepoint Centre)

Report

In accordance with Chapter 17.08.2 of the Town Code, a sign permit is required before placement of the exterior wall sign and tenant sign as proposed by Jacob Stoflet of Edward Jones Investments. Furthermore, Chapter 17.08.6.D of the Town Code requires that the proposed sign conforms to the location, size and style requirements as set forth in the Master Sign Program hereinafter referred to as “Ridgepoint Sign Guidelines”, which were approved by the Plan Commission on 1/18/05 with subsequent changes approved 5/18/10 and 9/6/11. A copy of these guidelines are attached for reference.

Permit application information: The applicant has provided an application including a sign plan. The information in the application is summarized below.

1. The proposed exterior wall sign:
   a. Will be mounted on the face of the building.
   b. Consists of store identification (Edward Jones) only.
   c. Consists of the Edward Jones corporate logo shown with black letters, which is same as the other wall signs on the Ridgepoint Centre building.
   d. Has an area of 35.7 square feet, which meets the criteria in guideline item 3 for maximum area: 1.2 feet x entry lineal frontage (30 feet) = 36 square feet.
   e. Has varying font, which is allowable if approved by both landlord and the Plan Commission. Note that other tenants have varying fonts (e.g. Santosh Yoga).
   f. Has reverse mount channel letters to be mounted two (2) inches from the wall.
   g. Has channel letters to be constructed of 0.040 aluminum face and returns with clear backing, and letters to be welded on the inside. Letters will be illuminated with white L.E.D. and will glow directly onto the façade of the building.
   h. Has a transformer to be mounted behind the façade.
i. Exceeds the maximum upper case letter height of 24” for the letter ‘J’ in Jones, which is 27-⅝”. This height is allowable if approved by the Plan Commission. Note that the ‘J’ in the Edward Jones logo hangs down lower than all other letters as a branding criteria.

j. Meets the minimum lower case letter height requirement of 12 inches.

2. The proposed tenant sign is 1.5 square feet in area, and is white vinyl to match the other panel signs within the monument sign located at the entrance to the Ridgepoint Centre.

3. Owner approval: See attached email dated 10/30/18 from Facility Manager (Andy Olson, Bevara) to Rob Wong (South Water Signs) indicating that the proposed sign looks fine for the building.

**Staff Recommendation:**

Subject to the comments from the Plan Commission, I recommend approval of the sign as proposed.

Kristen Belau, Assistant Town Engineer on behalf of Tim Barbeau, Town Engineer

January 31, 2019
TOWN OF DELAFIELD

APPLICATION FOR PLAN COMMISSION AGENDA

1. Owner: RidgePoint Center LLC
   Applicant or Owner's Agent: Meghan Carnot (leasing)
   Name: Luther Group LLC
   Company: Edward Jones, Investments
   Address: 730 Elm Grove Rd
   (street)
   (city) Elm Grove, WI 53182
   Telephone: office 414-977-1001
   Fax: 414-977-1001
   Address: W307 N 1497 Golf Rd, Suite 101
   (street)
   (city) Delafield, WI 53018
   Telephone: office 262-604-5073
   Fax: 262-604-5073

   E-mail address: edward.oumann@luthergr.com
   E-mail address: jacob.stoflet@edwardjones.com
   meghan.carnot@cushwake.com

2. **Type of Proposal:** (check all that apply)
   - Site Plan
   - Site Grading Plan
   - Lighting Plan
   - Landscaping Plan
   - Signage
   - Lot Allocation
   - Preliminary Plat
   - Final Plat
   - Certified Survey Map
   - Developer's Agreement
   - Home Occupation
   - Land Split
   - Zoning Amendment
   - Conditional Use
   - Lot Grading
   - Plan of Operation
   - Planned Unit of Development
   - Other (explain below)

3. **Nature of Development Proposal:** (Attach additional sheets as necessary.)
   - Tax Key No: 807 - 990 - 001
   - Location of Development: W307 N 1497 Golf Rd, Delafield, WI 53018
   - Present Zoning: B-1
   - Present Use: Office, light retail
   - Proposed Zoning: No Change
   - Proposed Use: Office, light retail
   - Description of Proposal: Will be an office space receiving 3-4 clients on average a day, only 2 employees within office at any one time with possible expansion to 3 employees. Client meetings lasting 30 minutes to 2 hours will need approximately 3-4 parking spaces.

4. **Action Requested:**
   - X Approval of items marked
   - Discussion (no formal action by the Plan Commission)
5. **Required Forms Checklist:**

   - [X] Legal Description (all applications)
   - [X] Professional Staff/Fees Chargeback Acknowledgement (all applications)
   - [ ] Certification for Division of Land (Certified Survey Maps that are land splits)

6. **Submission Information:**
   - One (1) copy of this application
   - One (1) electronic copy of all supporting materials, i.e., drawings, plans and written documentation (via e-mail to mary.elsner@townofdeliafield.org).
   - Two (2) full-size hard copies of all supporting materials, i.e., drawings, plans and written documentation.

I understand that this form shall be on file in the office of the Town Clerk by 4:30 p.m. on the 21st day before the meeting on which I desire to be heard or as required in the Land Division or Zoning Ordinance, whichever is longer. Plan Commission meetings are held the first Tuesday of each month. Furthermore, I understand that any engineering or legal review fees associated with this project may be charged to me.

**FAILURE TO PROVIDE ALL REQUIRED MATERIALS AND INFORMATION CAN RESULT IN THIS APPLICATION BEING WITHDRAWN FOR CONSIDERATION BY THE PLAN COMMISSION.**

Signature of Owner: __________________________

Print name: __________________________

Date: ____________

(Office Use Only)

<table>
<thead>
<tr>
<th>Fee Received</th>
<th>Date</th>
<th>Amount</th>
<th>Received By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Application Received</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Commission Meeting Date</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Hearing Date</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan Commission Action</td>
<td>Date</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Town Board Action</td>
<td>Date</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zoning Amendment Publishing Date</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TOWN OF DELAFIELD

PROFESSIONAL STAFF FEES CHARGEBACK ACKNOWLEDGEMENT

PLEASE BE ADVISED

That pursuant to the Town of Delafield Code of Ordinances, the Town of Delafield Town Board has determined that whenever the services of the Town Attorney, Town Engineer or any of the other Town’s professional staff results in a charge to the Town for that professional’s time and services, and such service is not a service supplied to the Town as a whole, the Town Clerk shall charge that service and the fees incurred by the Town to the owner of the property. Also be advised that pursuant to the Town of Delafield Code of Ordinances certain other fees, costs and charges are the responsibility of the property owner.

****************************************

I, the undersigned, have been advised that, pursuant to the Town of Delafield Code of Ordinances, if the Town Attorney, Town Engineer or any other Town professional provides services to the Town as a result of my activities, whether at my request or at the request of the Town, I shall be responsible for the fees incurred by the Town. Also, I have been advised that pursuant to the Town of Delafield Code of Ordinances, certain other fees, costs and charges are my responsibility.

[Signature]
Signature of Owner

[Date]
Date

[Owner's name (please print)]

Form received by: ______________________

Date: ______________________

lan: H\Delafield-T\Form\Plan Commission Application 170621.docx
Town of Delafield -- Plan of Operation

Edward Jones will be operating in an office manner. We service our clients by advising them on financial investments and retirement planning. On an average day we service 3-4 clients in the office and each appointment lasts between 30 minutes to 2 hours, depending on the nature of the meeting. We only have 1 client appointment at any one time. Typically, if there is a requirement for two client cars to be parked at a given time would be in a situation where a married couple drives separately or two business partners drive to the office separately. Edward Jones is structured as having only one Financial Advisor in the office and supported by a branch office administrator. As the Financial Advisor grows his/her business, we will look to expand to possibly 2 branch office administrators. In the future, the advisor may also elect to host a new financial advisor in their office for a temporary basis of 12-24 months, until the hosted advisor finishes their program and finds an office of their own.

While our client meetings typically occur during normal business hours of 8am -5pm, there will be instances where an evening meeting is requested by a client. No client meeting would go past 9pm, but may go up to that time. The business shall operate Monday – Friday and occasionally on the weekends, based upon client needs. As we prepare to open for business in the town of Delafield, we will arrange for a grand opening and a possible open house. At that time we will have 5-15 members of community walking through the space to tour the new office. Additionally, hosting up to 10 clients for a small seminar in our conference room on a quarterly basis is a possibility. Seminars are not a common occurrence and would take place after normal business hours.

This business will not be selling any physical products and will only be structured as a financial services business. We will not be accepting shipments of goods to distribute and there is no point of sale set up at this office. Also please note that this location is a corporate held lease and it is not a lease with the individual financial advisor and the landlord. The lease is held with the Home Office of Edward Jones and the landlord of the property.

For additional clarification on the business model please discuss with the local financial advisor.
Yes the parking is plenty adequate.

Andy Fishler, MBA, CCIM
Luther Group, LLC

On Dec 17, 2018, at 3:17 PM, Meghan Carnot/USA <meghan.carnot@cushwake.com> wrote:

Andy,

Can you please confirm that there is adequate parking at the center to accommodate Edward Jones’ clients and employees without impairing other businesses? This is needed as part of the application as well.

Kind regards,

Meghan Carnot | Leasing Coordinator
On behalf of Edward Jones Branch Facilities

** Please note: I will be out of the office December 19th until January 2nd**

1245 JJ Kelley Memorial Dr | St. Louis, MO 63131
314-515-3905 | meghan.carnot@cushwake.com

From: Andy Fishler [mailto:afishler@luthergrp.com]
Sent: Monday, December 17, 2018 1:59 PM
To: Meghan Carnot/USA <meghan.carnot@cushwake.com>
Subject: Delafield forms

Meghan,

Signed forms attached....

Andy Fishler, MBA, CCIM
Vice President

LUTHER GROUP
780 Elm Grove Rd
Elm Grove, Wisconsin
# TOWN OF DELAFIELD
## SIGN PERMIT APPLICATION

### Project Location (Building Address)
W307N1497 Gold Rd Suite 101 Delafield, WI

### Project Description
- [ ] Commercial
- [ ] Residential

<table>
<thead>
<tr>
<th>Owner's Name (Print)</th>
<th>Mailing Address</th>
<th>Telephone – Include Area Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ridgepoint Center LLC</td>
<td>4305 N Brookfield Rd Brookfield WI</td>
<td></td>
</tr>
<tr>
<td>Contractor's Name</td>
<td>Mailing Address</td>
<td>Telephone – Include Area Code</td>
</tr>
<tr>
<td>Bauer Sign &amp; Lighting Co</td>
<td>2500 S 170th Street New Berlin WI 53151</td>
<td>262-784-0500 x 2402</td>
</tr>
</tbody>
</table>

### SITE
- [ ] N.W.
- [ ] S.W.
- [ ] 1/4 N.E.
- [ ] 1/4 S.W.
- [ ] 1/4 Section 22
- [ ] T.
- [ ] N.R.
- [ ] E.W.
- [ ] E.
- [ ] W.

<table>
<thead>
<tr>
<th>Lot No.</th>
<th>Block No.</th>
</tr>
</thead>
</table>

### Zoning District

<table>
<thead>
<tr>
<th>Total Area</th>
<th>Setbacks</th>
<th>Front</th>
<th>Rear</th>
<th>Left</th>
<th>Right</th>
</tr>
</thead>
</table>

### PROJECT
- [ ] New
- [ ] Alteration
- [ ] Addition
- [ ] Repair
- [ ] Raze
- [ ] Commercial
- [ ] Residential
- [ ] Seasonal
- [ ] Permanent
- [ ] Other
- [ ] Wall
- [ ] Projecting
- [ ] Roof
- [ ] Ground
- [ ] Free Standing
- [ ] Other

### USE
- [ ] Empty Suite, to be occupied by Edward Jones

### SIGN FENCE
- [ ] 1st Side 35.7 Sq. Ft.
- [ ] 2nd Side 35.7 Sq. Ft.
- [ ] Other 35.7 Sq. Ft.

### HEIGHT
- [ ] Internally
- [ ] Externally

### ILLUMINATED
- [ ] 9. ESTIMATED COST
- [ ] TOTAL 3,000

### EXISTING SIGNS
- [ ] 6. SHORELAND/FLOODLAND
  - Shore setback
  - Floodplain setback

### TYPE OF MATERIAL
- [ ] Wood
- [ ] Metal
- [ ] Plastic
- [ ] Canvas
- [ ] Other

### EXISTING SIGN
- [ ] Sign 1
  - Size: Width
  - Height
  - Setback
  - Offset
- [ ] Sign 2
  - Size: Width
  - Height
  - Setback
  - Offset

### PLAT OF SURVEY INCLUDING THE FOLLOWING INFORMATION:
1) Location and dimensions of Lot.
2) Location and dimensions of all existing and proposed buildings on the Lot.
3) Location, centerline and grade of all existing streets.
4) Elevation of proposed new buildings.
5) High water line of any water body which Lot abuts.
6) Location of any existing or proposed wells, septic systems, public sewer or water mains on the Lot.
7) Location of any proposed and existing signs.

The applicant agrees to comply with the Municipal Ordinances and with the conditions of this permit; understands that the issuance of the permit creates no legal liability, express or implied, of the Department, Municipality, Agency or Inspector; and certifies that all the above information is accurate.

### SIGNATURE OF APPLICANT

### CONDITIONS OF APPROVAL:
- This permit is issued pursuant to the following conditions. Failure to comply may result in suspension or revocation of this permit or other penalty.

### FEES:
- [ ] Plan Review Fee
- [ ] Inspection Fee
- [ ] Administration Fee
- [ ] Other

### PERMIT EXPIRATION:
- Permit expires one year from date issued unless municipal ordinance is more restrictive.

<table>
<thead>
<tr>
<th>CK #</th>
<th>Amt.</th>
<th>Date</th>
<th>From</th>
<th>Rce By</th>
</tr>
</thead>
</table>

### RECEIPT

### PERMIT ISSUED BY MUNICIPAL AGENT:
- Name
- Date

### Distribution:
- [ ] Owner
- [ ] Zoning Administrator
- [ ] Building Inspector
- [ ] Assessor

DATE: 11/8/2018
<table>
<thead>
<tr>
<th>Sign</th>
<th>Recommended Sign</th>
<th>SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign 01</td>
<td>24&quot; Halo Lit Letterset</td>
<td>35.7</td>
</tr>
<tr>
<td>Sign 02</td>
<td>Tenant Panel Vinyl</td>
<td>1.5</td>
</tr>
</tbody>
</table>
**Sign 01 - Channel Letters (Reverse Mounted - Halo Lit)**

No Existing Sign

Proposed Sign

---

**Part No.**

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>SQ. FT</th>
</tr>
</thead>
<tbody>
<tr>
<td>24&quot;</td>
<td>27 7/8&quot;</td>
<td>16&quot;</td>
<td>15' 4 9/16&quot;</td>
<td>8' 3 3/8&quot;</td>
<td>6' 10 9/16&quot;</td>
<td>1&quot;</td>
<td>35.7</td>
</tr>
</tbody>
</table>

*Make connection to Existing power within 5' of the install location

**Electrical Requirements:**

120V/277V Class 2 Silet

60W 134 Single Phase, installed per NEC code book

all bonded and grounded

---

**Colors to Match**

- 

**1" Trim Cap & Returns - O40 Cell 012 Black**

---

**South Water Signs**
Sign 02 - Monument Panel Vinyl
1" = 1"

Apply std. white vinyl graphics to existing tenant panels

Quantity (2) required for DF monument

Edward Jones
INVESTMENTS
Hi Rob,

This looks fine for the building.

Thank you for checking.

Andy Olson

Facility Manager
Direct 262 822 2746 | Mobile 414 405 1415
Main 844 440 TECH | Fax 844 440 8325
andy.olson@bevaraserves.com

Bevara
W237 N2878 Woodgate Road | Suite 5
Pewaukee, WI 53072
www.bevarabuildingservices.com

We've Moved – Please Note Address Change:

On Mon, Oct 29, 2018 at 12:19 PM Rob Wong <RWong@southwatersigns.com> wrote:

Hi Andy Office: 262-522-2746; Cell: 414-979-1001
I received your contact info from Edward Jones whom will be leasing property at above location.

I work for a sign company hired by Edward Jones to help them with their signage needs.

Please review and once you approve, I will go onto next step city permit approvals...

Thanks

Robert Wong  Project Manager

rwong@southwatersigns.com

934 North Church Road, Elmhurst, IL  60126

DIRECT   630-607-6294
MOBILE   630-776-1362
FAX       630-333-4915

WEB       southwatersigns.com
RIDGEPOINT Sign Guidelines

1) Exterior signage shall consist of store identification only. No phone numbers allowable.
2) Corporate logos, emblems, shields and similar identifying devices consisting of the same color and construction as the rest of the sign shall be permitted when located within the designated sign area and is approved by landlord and Town of Delafield Plan Commission.
3) Each Tenants wall signage can only be (1.2 feet x the entry lineal front footage) of the business based on Section 17.08 10.D 4 b.2) and is limited in location to the envelopes designated on Exhibits A and B attached hereto. Tenants located on the second floor have the option to construct a second sign that will face Eastern as designated on the building elevations.
4) Varying fonts are allowable if approved by both landlord and the Town of Delafield Plan Commission.
5) Blinking, moving, or any types of non-consistent lighting are not allowed.
6) All exterior signage to be reversed mount channel letters, mounted two (2) inches from the wall.
7) All channel letters to be constructed of .040 aluminum face and returns.
8) All letters to be welded on the inside (no rivets, staples or crimp connections).
9) All letters to have a clear backing, none are allowed to be open on the back side.
10) Visible seams or patchwork on any letters will be prohibited and will be required to be taken down and replaced within one weeks time at the tenant or sign manufacture’s expense.
11) All signs to have a U.L. label visible from the ground.
12) All letters to be illuminated with white L.E.D.
13) All transformers to be mounted (and not visible) behind the façade,
14) All letters to be painted with Matthews duranodic bronze finish with a gloss clear coat.
15) There are no raceways or custom back pieces allowed. The light is to glow directly onto the façade of the building.

16) Names, stamps or decals of sign manufactures will not be allowed.

17) Signs to be mounted only on the face of the building, No rooftop or illuminated building signs allowed.

18) Window signs shall be on the door only and be limited to 10% of the door area, and be approved by the landlord and the code enforcement officer.


20) The Minimum height of any Upper case letter cannot be less than 12” without Plan Commission Approval.

21) Lower case letters cannot be any less than 12” in height.

22) Informational signs per section 17.08 9.K are allowed.

23) “The Town shall allow one monument sign subject to the approval of the plan commission at a later date, prior to construction of the sign.” Motion carried
Reverse Channel Letters

Access Cover
Transformer
Glass Housing
Letter Face
Neon Tube
Clear Plex Back Panel

Channel Letters Are Spaced Away From Surface So Illumination Will Show Around Each Letter.
December 27, 2018

Town Board
Town of Delafield
W302 N1254
Delafield, WI 53018

Re: Telecommunications Facilities
Small Wireless Facilities Siting
New FCC Regulations
Recommendations

Ladies and Gentlemen:

Effective January 14, 2019, new rules adopted by the Federal Communications Commission will take effect regarding state and local government regulation of the placement, construction and modification of personal wireless service facilities. These federal regulations will add to the already existing federal preemptions and state preemptions of local authority concerning telecommunications facilities. I am writing to offer an update on the state of the law in this area, and to offer certain recommendations.

Unfortunately, there is no simple summary that can be provided of the current laws that apply because the State of Wisconsin has already regulated this area significantly, and these new federal regulations add a new layer of complexity. Municipalities must comply with the state laws and also with the federal laws, of course. To help navigate the issue, we have prepared a series of tables showing the state and federal requirements that apply to various issues, which are attached, and are summarized as follows:

1. **Exhibit A: Application Review Deadlines: Collocation on Existing Structures.** This table shows the laws that apply for collocation on existing structures, whether the collocation is a traditional large cell antenna array or the new small wireless technology under federal and state laws.

2. **Exhibit B: Definitions of Substantial Change.** This table outlines the state and federal definitions of what constitutes a substantial change to an existing facility. This is significant because if it is a substantial change, the telecommunications provider must comply with the new structure requirements rather than the collocation requirements.

3. **Exhibit C: Application Review Deadlines: New Structures.** This exhibit outlines the state and federal review deadlines for traditional cell tower construction, and
for structures that will house the new small cell technology under state and federal laws.

4. Exhibit D: Application Fees for Large and Small Cell Siting of New Structures and Collocations. This table outlines the maximum fees that can be charged for large and small cell siting applications.

5. Exhibit E: Aesthetic Considerations for Large and Small Cell Siting of New Structures and Collocations. This table outlines the extent to which you are allowed to consider aesthetic issues under state and federal law, both for new structures and for collocations.

RECOMMENDATIONS:

In light of these new laws, I recommend that you consider whether your telecommunications ordinance, and your right-of-way regulation ordinance, should be revisited. I mention both of these issues because the location of telecommunications facilities within a right-of-way is subject to additional considerations, and telecommunications providers are actively pursuing that option. We recommend that you have appropriate regulations that apply to both issues, telecommunications generally and regulation of the right-of-way secondarily.

Additionally, having appropriate updated ordinances, it is very important that you act within the time required by these new laws to avoid facilities being deemed approved. You have a very short time to consider whether an application is complete, and you must act within the times required as described within the attached exhibits.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me. I would be happy to assist in drafting the necessary documents to accomplish your intent on request.

Yours very truly,

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/egm
Enclosures
cc: Mary Elsner, Town Clerk
### Exhibit A

#### APPLICATION REVIEW DEADLINES

**COLLOCATION ON EXISTING STRUCTURES**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>47 CFR Ch. I, Subch. A, Part 1 §1.8100</td>
<td>47 CFR Ch. I, Subch. A, Part 1, Subpart U; §1.8003</td>
<td>45 days to act, unless extended in writing by agreement with the applicant. If it is not acted upon within the required time, it is deemed approved. Note regarding right-of-way installations: Wisconsin Statutes §182.07(6) allows municipalities to establish a permit process for installations within the public right-of-way, but requires action within 60 days to approve or deny, or it is deemed approved.</td>
</tr>
</tbody>
</table>

- **60 days** (unless the time limit is extended by mutual agreement) to act to approve. *Shall approve* if it is not a substantial change. Deemed approved if no action is taken within 60 days.

- **80 days** for small wireless facilities collocation. If a single application includes batches that are a mix of collocations and new structures, the presumptively reasonable period of time is 90 days.

- The time is tolled if within 30 days the municipality clearly and specifically delineates any missing information. The time commences to run again when the applicant responds to their request for more information. The municipality has 10 days to notify the applicant if the response does not provide the needed information, and this continues for any subsequent requests for information. No subsequent notice of incompleteness can include a request for information that is not specified in the initial request for more information.

- The time begins when the application is received and is only tolled starting the day after we notify them that their application is incomplete and identify the missing documents until the new submittal is received.

- If we notify them by the 10th day after their submission that this application is incomplete and specify the missing documents, the shot clock starts when they submit a complete application.

- The application requirement only includes the name and business address and contact individual for the applicant; the location of the affected support structure; and the location of the proposed facility; and we have interpreted the law to also require some showing that they are doing work that qualifies as not substantial (Class 2 collocation). The municipality must make a completeness determination within 5 days, and notify the applicant within that time if the municipality believes the application is not complete. The applicant may resubmit as often as necessary until it is complete. Unlike the federal law, the State law time limit for action (45 days) does not commence to run until the application is complete.

---

Please note the following: this is a summary of certain state and federal laws that exist on the date this summary is provided. These laws are continually being reviewed by state and federal legislators and regulators. Moreover, this summary may not address details sufficiently for any particular issues that may arise in individual circumstances. Please consult your legal counsel with regard to any particular issues that may arise, as this is not a substitute for legal advice tailored to any particular situation.
<table>
<thead>
<tr>
<th><strong>Federal Law/Not in ROW</strong></th>
<th><strong>Federal Law in ROW and all Base Stations</strong></th>
<th><strong>Wisconsin State Law</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 ft., whichever is greater.</td>
<td>Increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 10 ft., whichever is greater.</td>
<td>For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet. (One exception, though, excludes such towers from the definition of substantial modification if a greater height is necessary to avoid interference with an existing antenna, per Section 66.0404(4)(a).)</td>
</tr>
<tr>
<td>Adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 ft., or more than the width of the tower structure at the level of the appurtenance, whichever is greater.</td>
<td>Adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 6 ft., or more than the width of the tower structure at the level of the appurtenance, whichever is greater.</td>
<td>For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more. (One exception, though, excludes such towers from the definition of substantial modification if a greater height is necessary to avoid interference with an existing antenna, per Section 66.0404(4)(a).)</td>
</tr>
<tr>
<td>Involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.</td>
<td>Involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.</td>
<td>Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for consolidation. (One exception, though, excludes such towers from the definition of substantial modification if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable, per Section 66.0404(4)(d).)</td>
</tr>
<tr>
<td>Entails any excavation or deployment outside the current site.</td>
<td>Entails any excavation or deployment outside the current site.</td>
<td>Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.</td>
</tr>
</tbody>
</table>

Please note the following: this is a summary of certain state and federal laws that exist on the date this summary is provided. These laws are continually being revised by state and federal legislators and regulators. Moreover, this summary may not address details sufficiently for any particular issues that may arise in individual circumstances. Please consult your legal counsel with regard to any particular issues that may arise, as this is not a substitute for legal advice tailored to any particular situation.
| Federal Law: Large Wireless Facilities  
47 CFR Ch. I, Subch. A, Part 1, Subpart U;  
§1.6003 | State Law: §66.0404(2)(d), Wis. Stats. |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Within 150 days is the presumptively reasonable period of time</strong></td>
<td><strong>For small wireless facilities the presumptively reasonable time is 90 days if going on a new structure. If the application includes batches that are a mix of collocations and new structures, the presumptively reasonable period is 90 days.</strong></td>
<td><strong>90 days to act, unless extended in writing by agreement with the applicant. If it is not acted upon within the required time, it is deemed approved. Note regarding right-of-way installations: Wisconsin Statutes §162.07(9) allows municipalities to establish a permit process for installations within the public right-of-way, but requires action within 60 days to approve or deny, or it is deemed approved.</strong></td>
</tr>
<tr>
<td>The time is tolled if within 30 days the municipality clearly and specifically delineates any missing information. The time commences to run again when the applicant responds to their request for more information. The municipality has 10 days to notify the applicant if the response does not provide the needed information, and this continues for any subsequent requests for information. No subsequent notice of incompleteness can include a request for information that is not specified in the initial request for more information.</td>
<td>The time begins when the application is received and is only tolled starting the day after we notify them that their application is incomplete and identify the missing documents until the new submittal is received.</td>
<td>The application requirement only includes the name and business address and contact individual for the applicant; the location of the affected support structure; and the location of the proposed facility. The municipality must make a completeness determination within 10 days, and notify the applicant within that time if the municipality believes the application is not complete. The applicant may resubmit as often as necessary until it is complete. Unlike the federal law, the State law time limit for action (90 days) does not commence to run until the application is complete.</td>
</tr>
<tr>
<td>For new small wireless facilities, if we notify them by the 10th day after their submission that their application is incomplete and specify the missing documents, the shot clock starts when they provide the complete application.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Exhibit D**

**APPLICATION FEES FOR LARGE AND SMALL CELL SITING**

**NEW STRUCTURES AND COLOCATIONS**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>[not specified]</td>
<td>The following are presumed by the FCC to be acceptable fees: $500 for non-recurring fees, including a single up-front application that includes up to 5 small wireless facilities, plus $100 for each small wireless facility beyond 5; $1,000 for non-recurring fees for a new pole (not a colocation) to support one or more small wireless facilities; and $270 per small wireless facility per year for attachment to municipal owned structures in the right-of-way.</td>
<td>Less than or equal to $3,000</td>
<td>The lesser of $500 or the amount charged for a building permit for any other type of commercial development or land use development.</td>
</tr>
</tbody>
</table>

Please note the following: this is a summary of certain state and federal laws that exist on the date this summary is provided. These laws are continually being revisited by state and federal legislators and regulators. Moreover, this summary may not address details sufficiently for any particular issues that may arise in individual circumstances. Please consult your legal counsel with regard to any particular issues that may arise, as this is not a substitute for legal advice tailored to any particular situation.
### Exhibit E

**AESTHETIC CONSIDERATIONS FOR LARGE AND SMALL CELL SITING**

**NEW STRUCTURES AND COLLOCATIONS**

<table>
<thead>
<tr>
<th>FCC Declaratory Ruling, Federal Register, Volume 83, #199, October 15, 2018</th>
<th>Wisconsin State Law: §66.0404(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Commission concludes that aesthetic requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments and (3) objective and published in advance.</td>
<td>New structures: (subsection (g)): A political subdivision may not disapprove an application for a new or substantially modified antennas structure based solely on aesthetic concerns.</td>
</tr>
<tr>
<td>Undergrounding requirements “may well be permissible” under state law as a general matter; but “a requirement that all wireless facilities be deployed underground would amount to an effective prohibition.”</td>
<td>Collocations: (subsection (gmm)): A political subdivision may not disapprove an application for colocation based on aesthetic concerns.</td>
</tr>
<tr>
<td>Minimum spacing requirements: “The Commission acknowledges that while some such requirements may violate 253(a), others may be reasonable aesthetic requirements ... therefore such requirements should be evaluated under the same standards as other aesthetic requirements.”</td>
<td></td>
</tr>
</tbody>
</table>

---

Please note the following: this is a summary of certain state and federal laws that exist on the date this summary is provided. These laws are continually being revisited by state and federal legislators and regulators. Moreover, this summary may not address details sufficiently for any particular issues that may arise in individual circumstances. Please consult your legal counsel with regard to any particular issues that may arise, as this is not a substitute for legal advice tailored to any particular situation.
Here is one.

We can’t treat telecommunications companies differently from other users or the ROW, so I believe you will not see any reference to telecommunications companies directly in the ordinance. Instead, this applies relatively stringent requirements upon all users of the ROW.

Let me know if you have any questions or concerns. Thanks.

Eric J. Larson

---Original Message-----
From: Belan, Kristen
Sent: Friday, January 25, 2019 10:21 AM
To: Eric Larson
Subject: New FCC Regulations | Request for example Telecommunications and Right-of-Way Regulations Ordinances | Town of Delafield

Good morning Eric - I’m following up on my request for an example ordinance that I can include in the Town of Delafield's next Plan Commission meeting packet due no later than January 30th. This ordinance would be
reviewed/presented as an example of how the new FCC regulations could be applied to updating the Town's Telecommunications and Right-of-Way Regulations Ordinances. Your help is really appreciated.

Kristen J. Belan, P.E.
Project Engineer
CFM
Licensed in: WI

[link]
16745 West Bluemound Road, Brookfield, WI 53005-5938
direct: (262) 317-3224
mobile: (262) 490-3835
SAMPLE ORDINANCE FOR REFERENCE ONLY

VILLAGE OF [____]
STATE OF WISCONSIN
ORDINANCE NO. ____

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 8.05 OF THE VILLAGE
OF [____] VILLAGE CODE CONCERNING OBSTRUCTIONS AND
ENCROACHMENTS IN VILLAGE RIGHTS-OF-WAY

WHEREAS, the Village Board of the Village of [____] has received a recommendation that
the Village repeal and re-create Section 8.05 of the Village Code to more comprehensively
regulate obstructions and excavations taking place therein and to regulate the placement of
facilities in the rights-of-way, and:

WHEREAS, the Village Board of the Village of [____] deems it necessary to place
reasonable restrictions on the public right of way.

NOW, THEREFORE BE IT RESOLVED, the Village Board of the Village of
[____], [____] County, Wisconsin does hereby ordain as follows:

PART 1: Chapter 8 of the Village of [____] Village Code entitled, “Public Works,”
Section 8.05 entitled, “Obstructions and Encroachments,” is hereby repealed and re-created as
follows:

8.05. Obstructions and encroachments.

(1) Purpose and Findings. In the exercise of governmental functions the Village has
priority over all other uses of the public rights-of-way. The Village desires to
anticipate and minimize the number of obstructions and excavations taking place
therein and to regulate the placement of facilities in the rights-of-way to ensure that
the rights-of-way remain available for public services and safe for public use. The
taxpayers of the Village bear the financial burden for the upkeep of the rights-of-way
and a primary cause for the early and excessive deterioration of its rights-of-way is
the frequent excavation by Persons who locate facilities therein.

The Village finds with increased use of the public rights-of-way there are increased
costs to the taxpayers of the Village and that these costs are likely to continue into the
foreseeable future.

The Village finds occupancy and excavation of its rights-of-way causes costs to be
borne by the Village and its taxpayers, including but not limited to:

(a) Administrative costs associated with public right-of-way projects, such as
registration, permitting, inspection and supervision, supplies and materials.

(b) Management costs associated with ongoing management activities
necessitated by public right-of-way users.

(c) Repair or restoration costs to the roadway associated with the actual
excavation into the public right-of-way.
(d) Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.

(e) In response to the foregoing facts, the Village hereby enacts this ordinance relating to administration of and permits to excavate, obstruct and/or occupy the public rights-of-way which results in above grade use of the right-of-way. This ordinance imposes reasonable regulations on the maintenance of obstructions above grade currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.

(f) The purpose of this ordinance is to provide the Village a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of the costs incurred in doing so. This ordinance provides for the health, safety and welfare of the residents of the Village as they use the right-of-way of the Village, as well as to ensure the structural integrity of the public rights-of-way.

(2) Prohibited. No person shall encroach upon or obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsection (3) and (4).

(3) Exceptions. The prohibition of Subsection (2) shall not apply to the following:

(a) Signs and clocks attached to buildings which project not more than six feet from the face of such building and which do not extend at any point lower than 10 feet above the sidewalk, street or alley.

(b) Awnings which do not extend at any point lower than seven feet above the sidewalk, street or alley.

(c) Official signage, official traffic control devices, and utilities owned or leased by the Village.

(d) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on a sidewalk, provided that such goods, wares, etc., do not remain thereon for more than three hours.

(e) Obstructions or encroachments lawfully existing prior to [INSERT ORDINANCE EFFECTIVE DATE].

(f) Temporary encroachments or obstructions authorized by permit granted pursuant to § 66.0425, Wis. Stats.

(4) Permit Required. Any above grade use or installation, encroachment or obstruction of the right-of-way requires a right-of-way permit from the Village prior to such installation, use, encroachment or obstruction being established.
(a) Application requirements.

1. An above grade right-of-way permit application shall be filed with the Village Engineer.

2. The applicant shall pay the above grade right-of-way permit fee. The above grade right-of-way permit fee shall be in the amount as established by Resolution of the Village Board, and may be amended from time to time. Such fee shall not exceed a reasonable approximation of actual costs incurred, shall be limited to objectively reasonable costs, and shall be uniform for similarly situated users of the right-of-way in similar situations. In addition a professional fee charge back agreement shall be signed to ensure compliance with Village Ordinance that professional fees incurred by the Village to review said applications are paid and the permit fee shall be established with this actual professional fee cost recovery in mind, to avoid excess cost recovery.

3. The applicant shall provide a detailed plan with structural engineering, scale drawings, visual rendering, and survey showing the exact location, size, appurtenances and or attachments of the equipment or structure to be placed in the right-of-way, along with the exact location of all streets, sidewalks, utilities, trees, and any other obstructions in the vicinity of the proposed installation, and the location of structures on abutting properties.

4. The applicant shall provide a detailed report describing potential hazards to the public from said equipment, structure, and impacts due to location on safety for the driving public, pedestrians, and owners and users of adjacent property for such things as, but not limited to; fall zone, fire, explosion, chemical, environmental impacts, and vehicle crash impacts. Said report shall indicate the risk of the safety hazard and the proposed design element to address said safety hazard. The Village Engineer may require the applicant’s report to be provided by a structural engineer or other expert approved by the Village Engineer, if the Village Engineer deems it to be necessary to have such an expert opinion in light of the circumstances of the application, for the protection of public health and safety, in which case the applicant shall provide such an opinion at the applicant’s cost.

5. The plan must show how the installation and maintenance of said above grade right-of-way use will not impact snow or grass removal from the terrace, sidewalk or street, or conflict with the operation or maintenance of vehicular travel and existing utilities above or below ground.

6. An alternative analysis shall be provided to show what options other than locating above grade in the right-of-way exists and the approximate costs of such alternatives.

(b) Application process.
1. The Village Engineer shall review said permit application and determine if all application materials have been submitted within 10 days of receipt of the initial application.

   a. If the application materials are not complete the Village shall provide written notice to the person on the application that said application is incomplete. The applicant shall have up to 30 days from the date of initial application to provide a complete application or the application shall be deemed insufficient and denied. The Village shall have 60 days to review and act on the permit from the date that the Village determines the application is complete and all fees paid.

2. Existing Uses. Village Staff shall determine whether to approve, deny, or conditionally grant above grade right-of-way permits for any new installation, use, encroachment, obstruction or excavation added to either a previously approved above grade use or one that was legally placed prior to [INSERT ORDINANCE EFFECTIVE DATE], unless the Village Manager concludes the new installation, use, encroachment, obstruction, or excavation may obstruct or incommode the public use in which case the application shall be subject to the procedures of subsection 3.

3. New Uses. All above grade right-of-way permit applications other than those described pursuant to subsection 2, shall be considered as follows.

   a. The Village Board shall hold a public hearing as soon as reasonably possible after application materials have been deemed complete by the Village Engineer and proper notification period for a class 1 notice and notice to all properties within 200 feet of the proposed installation.

   b. The Village Board shall give consideration to the application, the testimony received at the public hearing, staff and expert reports, or other information as the Village Board determines appropriate. The Village Board shall consider public safety, alternative options, aesthetic considerations as described in Section (13), and the public good when considering an above grade right-of-way permit. The Village Board may grant the permit, grant the permit with conditions, or deny the permit.

(5) Right-of-Way Restoration. The work to be done under the permit, and the repair and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit to the satisfaction of the DPW Director or his or her designee. In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for thirty-six (36) months thereafter.
The permittee shall perform repairs and restorations according to the standards and with the materials specified by the DPW Director or his or her designee. The DPW Director or his or her designee shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The DPW Director or his or her designee in exercising this authority shall be guided by the following standards and considerations:

(a) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way.

(b) The traffic volume carried by the right-of-way.

(c) The character of the neighborhood surrounding the right-of-way; the pre-excavation condition of the right-of-way.

(d) The remaining life-expectancy of the right-of-way affected by the excavation.

(e) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way.

(f) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Methods of restoration may include, but are not limited to, patching, replacement of the right-of-way base, restoration of landscaping, and milling and overlay of the entire area of the right-of-way affected by the work. During this thirty-six (36) month period, it shall, upon notification from the DPW Director or his or her designee, correct all restoration work to the extent necessary using the method required by the DPW Director or his or her designee. Said work shall be completed within five (5) calendar days of the receipt of the notice from the DPW Director or his or her designee. If the permittee fails to restore the right-of-way in the manner and to the condition required by the DPW Director or his or her designee, or fails to satisfactorily and timely complete all repairs required by the DPW Director or his or her designee, the DPW Director or his or her designee, at his or her option, may do such work. In that event, the permittee shall pay to the Village, within thirty (30) days of billing, the cost of restoring the right-of-way.

(6) Bond. Prior to commencing the work, any permittee performing work within the right-of-way shall post a financial guarantee in an amount approved by the DPW Director or his or her designee and in a form approved by the Village Attorney, provided that the limitations of Wisconsin Statutes Section 66.0425(2) shall apply as applicable. If, thirty-six (36) months after completion of the restoration of the right-of-way, the DPW Director or his or her designee determines that the right-of-way has been properly restored, the surety on the performance bond shall be released.
(7) Indemnification Agreement. Before any person, entity, or utility commences work pursuant to this section, such person, entity or utility shall file an agreement with the Village Clerk to hold the Village harmless, indemnify, and defend the Village from and against any and all injury and damage of any kind caused or occurring as a result of such work. The agreement shall be in a form approved by the Village Attorney, and shall have continuing effect during the course of such work and for all time that the obstruction or facilities or installation remain within the right-of-way, and thereafter until such obstruction is removed and the site is fully restored to the satisfaction of the DPW Director or his or her designee.

(8) Reservation of Rights. The Village retains all rights in Village right-of-way. The grant of a right-of-way permit per this section does not constitute a waiver of any Village rights and remedies regarding ongoing compliance obligations toward such installations. All persons, entities and utilities installing obstructions, encroachments or conducting excavation in Village right-of-way shall remove or relocate the obstruction, encroachment or excavation upon 10 day notice, except as otherwise provided by law.

(9) Compensation. The Village may require payment of compensation, in an amount determined by the Village Board, for the grant of any permit pursuant to this section, provided that compensation for more than applicable fees and cost recovery shall not be required of utilities that have the right to use the right-of-way by Wisconsin Statutes Section 182.017(1r). The compensation required shall be fair and reasonable, competitively neutral and nondiscriminatory and designed to recover direct and actual costs in connection with the installation, such as the cost for staff to review the siting application, costs associated with the use of the right-of-way, costs associated with maintaining the right-of-way itself or structures within the right-of-way to which the facilities are attached, and these standards apply both to initial fees and any recurring fees.

(10) Waiver of Deadlines. Timeline deadlines in this process may be waived by written mutual agreement of the applicant and the Village.

(11) Appeals. Any person who wishes to dispute actions taken by the Village pursuant to this Section 8.05 may contact the Village Clerk and request to appear before the Village Board at an upcoming regular Village Board meeting and may, at that time, present the matter to the Village Board for resolution. Appeal from the decision of the Village Board shall be by writ of certiorari to the [_____] County Circuit Court.

(12) Compliance with Laws. Approval of a permit pursuant to this section does not waive the requirement to comply with all other applicable laws and ordinances. All applicable federal, State, [_____] County, and Village of [_____] codes, statutes, regulations, administrative rules, ordinances and other laws must be followed.

(13) Aesthetic Requirements. All users of the Village right-of-way shall comply with the following aesthetic standards:

(a) In areas where facilities are currently nonexistent or underground, undergrounding is required.
(b) No new above ground structures, including co-locations on existing structures, shall be placed within 500 feet of structures representative of the greenbelt planned community development, which earned Greendale designation as a National Historic Landmark by the U.S. Department of the Interior. The historic structures subject to this requirement are all structures built prior to 1945, unless the Applicant can demonstrate that a particular structure is not representative of the historic greenbelt development. The 500-foot separation is waived for installations that are completely concealed from view, or are not visible from locations where the historic structure can be observed.

(c) Attachments to existing structures shall be designed to be flush with the existing structure as much as can reasonably be done, shall be a color that matches the existing structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.

(d) Any party objecting to the requirements of this Subsection (13) shall have an opportunity to demonstrate that the requirement constitutes an effective prohibition in violation of State or Federal law, in an appeal made pursuant to Subsection (11).

(14) Debris. Any debris arising from the permittee's use, whether arising from construction or at any time thereafter, must be promptly removed by the permittee. Debris remaining for more than five (5) business days constitutes a violation of this Ordinance subject to the violations and penalties provisions of Sections 8.15 and 25.04 of this Code. Each day that the debris remains after such time constitutes a separate offense.

PART 2: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

PART 3: EFFECTIVE DATE. This ordinance shall take effect upon posting and publication as provided by the law.

Passed and adopted by the Village Board of the Village of [____], [____] County, Wisconsin this ______ day of __________________, 2019

________________________
Clerk

Published and/or posted this _________ day of __________, 2019
<table>
<thead>
<tr>
<th>Proposed Ordinance Modification (excluding Downtown Okeechobee District related standards)</th>
<th>Shoreland &amp; Floodplain Protection Ordinance</th>
<th>Ordinance Section</th>
<th>Page #</th>
<th>General Zoning Code</th>
<th>Code Section</th>
<th>Page #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition of &quot;effort&quot; (include structures, not just buildings); special exceptions (modify standards to reduce subjectivity of review); structure (include fences, sea &amp; area variances per state statute)</td>
<td>X</td>
<td>200</td>
<td>24-38</td>
<td>X (except for fees referenced)</td>
<td>2.02</td>
<td>15-22</td>
</tr>
<tr>
<td>Provide option for Town Plan Commission to waive some Plan of Operation timeline authority or assign to Town Planner</td>
<td>X</td>
<td>306</td>
<td>47</td>
<td>X</td>
<td>3.03(6)</td>
<td>25</td>
</tr>
<tr>
<td>Clarify that Town &amp; County Plan Commission approval is not required for farm buildings within FPL District</td>
<td>X</td>
<td>306</td>
<td>52</td>
<td>X</td>
<td>3.04(3)</td>
<td>27</td>
</tr>
<tr>
<td>Require Town Plan Commission approval for wells less than 5 ft. from a wetland, rather than 5 ft. or less from a lot line</td>
<td>X</td>
<td>306</td>
<td>55</td>
<td>X</td>
<td>3.04(5)(8)</td>
<td>29</td>
</tr>
<tr>
<td>Clarify that priority tree removal requires replacement with priority tree species, and building to priority tree species list</td>
<td>X</td>
<td>306</td>
<td>24</td>
<td>X</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Remove multiple-family use statement regarding definition and permitting requirements, already specified elsewhere</td>
<td>X</td>
<td>2451</td>
<td>65</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Specify that road setback averaging Applies to both public and private roads, clarify existing road setback averaging provisions and requirements for improvements to structures in road R.O.W., exempt fences from road setback</td>
<td>X</td>
<td>306</td>
<td>64-67</td>
<td>X</td>
<td>3.04(1)</td>
<td>66-67</td>
</tr>
<tr>
<td>Apply setback setback averaging provisions to swimming pools located immediately adjacent to a residence</td>
<td>X</td>
<td>306</td>
<td>71</td>
<td>X</td>
<td>3.04(2)(6)</td>
<td>66-67</td>
</tr>
<tr>
<td>Clarify provisions related to the clustering of accessory structures</td>
<td>X</td>
<td>306</td>
<td>72</td>
<td>X</td>
<td>3.04(6)(4)</td>
<td>67-68</td>
</tr>
<tr>
<td>Exempt fences from the offset provisions</td>
<td>X</td>
<td>306</td>
<td>73</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Require 15 ft. setbacks between buildings unless otherwise specified, require provision that allows reduced setback on one side if increase setback on other side</td>
<td>X</td>
<td>306</td>
<td>74</td>
<td>X</td>
<td>3.04(3)(12)</td>
<td>68-69</td>
</tr>
<tr>
<td>Clarify that the 35 ft. building height restriction with 75 ft. of a waterfront does not apply if the adjacent dock/patio is located within 75 ft., include long-term maintenance provisions for the planting of trees that are required when increasing the height of a building adjacent to a waterfront</td>
<td>X</td>
<td>306</td>
<td>75</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Provide an exception from the min. living floor area provisions in order to accommodate a 600 sq. ft. garage</td>
<td>X</td>
<td>306</td>
<td>76</td>
<td>X</td>
<td>3.1.4(13)(3)</td>
<td>70</td>
</tr>
<tr>
<td>Modify minimum living floor area requirements for single-family and two-family units that are part of a mixed-use development to match multi-family unit provisions</td>
<td>X</td>
<td>306</td>
<td>85</td>
<td>X</td>
<td>3.1.4(13)(7)</td>
<td>70</td>
</tr>
<tr>
<td>Remove a subsection that was also recently removed from State Statutes</td>
<td>X</td>
<td>306</td>
<td>77</td>
<td>X</td>
<td>3.1.13(1)</td>
<td>72</td>
</tr>
<tr>
<td>Proposed Ordinance Modification (excluding Downtown Osuachee District related standards)</td>
<td>Shoreline &amp; Floodplain Protection Ordinance</td>
<td>Ordinance Section</td>
<td>Page #</td>
<td>General Zoning Code</td>
<td>Code Section</td>
<td>Page #</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Repeal and re-rewrite off-street parking section to modernize stall and site sizes, determine minimum # of non-residential parking spaces required on new buildings using parking demand estimates, professional guidance documents and other factors, and add accessible parking standards</td>
<td>X</td>
<td>592</td>
<td>79-87</td>
<td>X</td>
<td>8.12</td>
<td>79-81</td>
</tr>
<tr>
<td>Amend nonconforming structure section &amp; North Lake Overlay District per State Statutes, specifically allow modifications/reconstruction of existing non conforming structure</td>
<td>X</td>
<td>5010</td>
<td>20-04, 209-210</td>
<td>X</td>
<td>(except North lake overlay/ zone)</td>
<td>3.17(5)</td>
</tr>
<tr>
<td>Identify Stormwater Permit requirement for new boathouse construction, ensure erosion control oversight to prevent lakes</td>
<td>X</td>
<td>3599</td>
<td>98</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Include long-term maintenance provisions in the Treated Impervious Surface standards</td>
<td>X</td>
<td>300.4.C.1.e</td>
<td>305-102</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Replace the term &quot;Treated Impervious Surface&quot; with &quot;Stormwater BMP&quot; within the mitigation standards to simplify terminology</td>
<td>X</td>
<td>300.4.C.1.F</td>
<td>109</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Amend Conditional the section to add references to substantial equivalence, etc. to incorporate new statutory requirements, a more comprehensive update of this section is planned in the future.</td>
<td>X</td>
<td>4</td>
<td>114.116</td>
<td>X</td>
<td>3.86</td>
<td>33-35</td>
</tr>
<tr>
<td>Clarify applicability of revenue share aid required to acquire building separation requirement that considers building on adjacent lots (presented charge by Town of Seabrook)</td>
<td>X</td>
<td>3704. &amp; .5</td>
<td>246-247</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Reference existing Board of Adjustment rules of procedures &amp; slightly modify considerations for decision making to match statutory language</td>
<td>X</td>
<td>283(13 &amp; 13(b))</td>
<td>248-352</td>
<td>X</td>
<td>21.01(3) &amp; 29.08</td>
<td>135-167</td>
</tr>
<tr>
<td>Add 2 recent COMARs to offset floodplain maps (Perrysburg River &amp; Assawoman Creek)</td>
<td>X</td>
<td>Table (141.B.)</td>
<td>790</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>