

CHAPTER 6: ZONING CODE

6.01 PURPOSE.

(1) The Village of Chenequa is primarily and almost exclusively a community of private residences, and is intended to be devoted solely to residence purposes so as to afford to its citizens the peace and quiet and restfulness unobtainable in the City;

(2) Territory available for business, manufacturing and other purposes not residential in nature is readily accessible to the village, and can easily supply the needs of the village, and is hereby found to be sufficient for the purposes and needs of the village;

(3) There is no municipal water or sewer system in village, and it is necessary for each residence to be equipped with its own such systems, and the public health demands that sufficient area be segregated to each residence to avoid contamination of water supply and to dispose of its sewage without danger of pollution of adjoining property;

(4) It is necessary in order to preserve the character of the Village, to conserve the value of the property therein, and to protect its ecology, all in accordance with the comprehensive plan of the Village, and to limit the number and character of structures located in proximity to the lake shore;

Therefore, the Village Board of the Village of Chenequa for the purpose of promoting the health, safety, aesthetics and general welfare of the residents of the Village of Chenequa has enacted this zoning code pursuant to Secs. 61.35 and 62.23(7), Wis. Stats.

6.02 INTENT.

It is the general intent of this chapter that the provisions herein aid and promote planning and zoning which will:

(1) Regulate and restrict the use of all structures, lands, and waters.

(2) Regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways.

(3) Secure safety from fire, flooding, panic and other dangers.

(4) Provide adequate light, air, sanitation and drainage.

(5) Prevent overcrowding, avoid undue population concentration.

(6) Facilitate the adequate provision of public facilities and utilities.

(7) Stabilize and protect property values,

(8) Further the appropriate use of land and conservation of natural resources.

(9) Preserve and promote the beauty of the Village of Chenequa.

(10) Prohibit public and private structures that are incompatible with the character of the RESIDENCE DISTRICT and, insure that new and remodeled Single Family Dwellings are of a size in keeping with their natural surroundings and neighboring structures, and that they do not detract from the uncrowded, rural atmosphere of the community. (REV. 2/06)

(11) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters.

(12) Further the maintenance of safe and healthful water conditions

(13) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects.

(14) Provide for the administration and enforcement of this Chapter and provide penalties for the violation of this Chapter.

6.03 DEFINITIONS. For the purpose of this ordinance certain terms and words are hereby defined as follows:

(1) **ACCESSORY BUILDING:** An accessory structure having a roof.

(2) **ACCESSORY STRUCTURE:** A detached structure used incidentally to the main structure or building and not used for dwelling or residence purposes. An accessory structure shall not contain cooking, sleeping or toilet facilities but may include a sink.

(3) **ACCESSORY USE:** A use subordinate in nature, intent or purpose to the principal use of the building or lot.

(4) **BUILDING:** A structure having a roof.

(5) **BUILDING OR STRUCTURE ALTERATION:** Any change to the supporting members of a building or structure such as bearing walls, beams, columns or girders; any addition to the building or structure which changes the outside boundaries; or any movement of the building or structure from one location to another.

(6) **CHAPTER:** Chapter 6: Zoning Code of the Village of Chenequa Code, unless the context indicates otherwise.

(7) **CODE:** The Code of Ordinances of the Village of Chenequa, Wisconsin, as amended.

(8) CONFORMING LOT: Any lot which complies with the minimum lot area requirements in Section 6.05(5) of this Code.

(9) CONFORMING STRUCTURE: Any building or structure which complies with all of the regulations of this Code and any amendments thereto. A structure shall be considered in compliance with any provision of this Code for which a variance has been explicitly granted, provided the structure is in compliance with all conditions and terms of the variance.

(10) CONFORMING USE: Any use of a structure or lot which complies with the provisions of this Code and any amendments thereto.

(11) CORNER LOT: A lot situated at the junction of and fronting on two (2) or more streets or highways.

(12) DETACHED STRUCTURE: A structure which is physically separate from other structures, the use of the structure is distinct and the foundations, roof lines or primary exterior structural walls are separate.

(13) FAMILY: Any number of individuals related by blood, marriage, or law, living in a single family structure and living and cooking together as a single housekeeping unit. A family may include in addition up to two (2) persons not related by blood, marriage, or law.

(14) FARM: Land consisting of five (5) acres or more on which produce, crops, or flowers are grown primarily for off-premise consumption, use or sale, or on which horses or livestock are housed or raised for personal use.

(15) FOOTPRINT: That area measured from outside of exterior wall to outside of exterior wall, provided that such exterior walls are footing supported. Fully enclosed atriums, courtyards, and vaulted areas are included. Patios, decks, terraces, or landing without roofs, and area beneath overhang are excluded.

(16) FRONTAGE: All of the property abutting on one (1) side of a street measured along the street line.

(17) GARAGE: A structure or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.

(18) HEIGHT OF STRUCTURE: The vertical distance from the ground level of any elevation to the highest point on the roof of such elevation.

(19) LAKE FRONTAGE: Lake frontage is the natural shore line of any lake in the Village of Chenequa at ordinary high water mark. Prior to August 10, 1998 (the effective date of this provision), lake frontage was measured at the ordinary low water mark. The change in definition shall not make nonconforming as to required area or lake frontage, any lot which is conforming with all provisions of this Code immediately prior to the effective date of this provision. Further such change shall not make nonconforming as to the required setback from

any lake, any structure which is conforming with all provisions of this Code immediately prior to the effective date of this provision, provided that such structure is not extended in any manner within said setback.

(20) **LEGAL NONCONFORMING LOT:** A lot the dimensions of which were recorded with the Register of Deeds either (a) no later than April 1, 1957 or (b) after April 1, 1957, if expressly approved by the Village Board. If recorded on or before April 1, 1957, the lot may have been added to but not subsequently reduced in area. (amended 9/8/03)

(21) **LEGAL NONCONFORMING STRUCTURE:** A nonconforming structure which complied with the regulations of this code applicable at the time the structure was constructed.

(22) **LEGAL NONCONFORMING USE:** A nonconforming use which complied with the regulations of this code applicable at the time the use was begun.

(23) **LIVING AREA:** The total usable space available within the perimeter walls on all floors of a building including interior corridors, stairs, elevators, passageways, and finished basements serving the primary function of the building. Unfinished basements and attics, unheated porches and breezeways, garages and maintenance shops are excluded from living area determinations. Heated basement or attic areas are considered finished if all of the walls, ceilings and floors are finished. Walls and ceilings shall be deemed finished only if they are covered with plaster, wallboard or similar material; floors shall be deemed finished only if they are covered with carpeting, tile, linoleum or similar material.

(24) **LOT:** A parcel of land defined by boundary lines within the Village of Chenequa, Wisconsin.

(25) **MODIFICATION:** A “building or structure alteration” (as defined in Section 6.03) and/or a “reconstruction” (as defined in Section 6.03).

(26) **NONCONFORMING STRUCTURE:** Any building or structure which does not comply with all of the regulations of this Code and any amendments thereto. If there are two or more buildings on a lot, each of which has cooking, sleeping or toilet facilities, then each building is nonconforming.

(27) **NONCONFORMING USE:** Any use of a lot or structure which does not comply with the regulations of this Code and any amendments thereto.

(28) **PERMANENTLY PLACED:** Placed for more than one (1) month, provided, however, that piers, shore stations and boat lifts (placed in or above the water during the summer months) may be placed on the shore during the period from September 1 of any year through June 1 of the next year and will not be considered permanently placed during such period.

(29) **RECONSTRUCTION:** The rebuilding of a structure in such a manner and to such an extent as to substantially replace the existing structure.

(30) **SIDE YARD:** An open unoccupied space on a lot between a structure and the side lot line and extending from the front lot line to the rear lot line.

(31) **SINGLE FAMILY STRUCTURE:** A detached building designed for and occupied by one family which is enclosed, heated and built on a foundation.

(32) **STREET WALL:** The main wall nearest to and facing on a public highway including sun-parlors, and roofed porches, open or closed, but excluding open steps or entranceways.

(33) **STRUCTURE:** Anything permanently placed on or in the ground for any use whatsoever including but not limited to any new or existing building, fences, pillars, gated entrances requiring a permit under Sec. 5.19 of the Building Code, driveways and recreational facilities.

(34) **TELECOMMUNICATION FACILITIES:** Any tower or telecommunication tower, mounting equipment, antenna, equipment shelter buildings, and any other equipment which a person seeks to locate, or has installed upon or near a tower or antenna support structure, pursuant to the Federal Telecommunications Act of 1996 (Public Law 104-104, 110 Stat. 56, 1996), as may be amended from time to time.

(35) **TEMPORARY STRUCTURE OR USE:** A structure located on a lot or the use of a lot for a period not to exceed one year.

(36) **TOWER OR TELECOMMUNICATION TOWER.** Any ground or roof-mounted pole, spire, structure, or combination thereof, taller than 15 feet, which has attached to it supporting antenna, support lines, cables, wire, braces, and masts, designed and constructed for the purpose of mounting and supporting one or more antenna, meteorological device, or similar apparatus above ground, used in providing wireless communications.

(37) **WIRELESS COMMUNICATIONS.** Any personal wireless services as defined in the Federal Telecommunications Act of 1996, as may be amended from time to time, including FCC licensed wireless telecommunications services that are interconnected with the public telephone network and are offered commercially to the public. Examples include cellular and similar services (such as personal communications service or “PCS”), paging and similar services, certain dispatch services, and services that use wireless technology to provide telephone services to a fixed location such as a home or office.

6.04 VILLAGE ZONING DISTRICTS. (REV. 1/14/02) The Village of Chenequa is hereby divided into the following zoning districts:

- (1) Residence.
- (2) Shoreland Wetland District.
- (3) Special Commercial.

6.05 RESIDENCE DISTRICT REGULATIONS. (REV. 2/06)

(1) GENERAL. No structure or lot shall be used, and no structure shall be hereafter erected or altered, within the Village of Chenequa unless otherwise provided in this ordinance, except for a permitted use

(2) PERMITTED USE

- (a) Single Family Structure
- (b) Temporary structure incident to construction
- (c) Accessory Structures
- (d) Farming, truck gardening, and nursery
- (e) Municipal Utility or Structure

(3) CONDITIONAL USE

The following types of structures may be constructed and used within the Village of Chenequa, provided that the person seeking to employ such a Conditional Use fully comply with and meet all requirements of Sections 6.05(4), 6.05(5) and 6.05(9):

- (a) Church or Temple
- (b) Private, public and parochial schools including accessory buildings, playgrounds, athletic fields, and gymnasiums, provided that such schools have a full time academic curriculum as required by State Statutes
- (c) Country Club

(4) REQUIREMENTS FOR CONDITIONAL USE

- (a) Required Application Materials.

A final written application for a conditional use shall include, when applicable:

- (i) statement by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in the Code, including, without limitation, Sections 6.05(4)(b), 6.05(5) and 6.05(9).

- (ii) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.
- (iii) Description of the subject site by street address, type structure, proposed operation or use of the structure or site, and number of employees.
- (iv) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping, if the application involves an entire building or any exterior changes of an existing building.
- (v) Statement of plan of operation, including anticipated regular hours of operation or use, maximum anticipated number of people using the site and/or structures thereon during times of anticipated heaviest usage.
- (vi) Plans for location of buildings, rooms, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting.
- (vii) Architectural plan, including proposed elevation.
- (viii) Statement as to number of square feet of all Structures proposed for the site.
- (ix) Traffic impact analysis, prepared by an individual who by profession may prepare such analyses, detailing how and to what extent traffic on abutting roads will be affected, during times of peak usage, by the proposed use of the site.
- (x) Any other pertinent information needed by the Village upon which to base its determination as to whether the proposed use meets the requirement of this Section.
- (xi) Lighting plan consistent with the code requirements and residential character of the Village.
- (xii) A storm water management plan.
- (xiii) Any other documents necessary to establish that the Village Code standards of Conditional Uses will be satisfied.

(b) Standards – Conditional Uses.

No application for a conditional use shall be granted by the Village Board unless the following conditions are present:

- (i) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (ii) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent properties and businesses.
- (iii) That the establishment of the conditional use will not impede the normal and orderly preservation or improvement of the surrounding property for uses permitted in the district.
- (iv) That adequate utilities and other necessary site improvements have been or are being provided.
- (v) That storm water management plan is prepared and will be followed.
- (vi) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (vii) That the aesthetic appearance of the structures to be constructed is consistent with, and does not detract from, the overall aesthetic character of the Village as a whole.
- (viii) That any exterior utilities or similar equipment to be located above-ground on the site be housed and enclosed within an Accessory Structure and the appearance of the Accessory Structure be similar aesthetically to the primary structures on the site using the same materials as are used for the exterior of the primary structures.
- (ix) That the conditional use shall conform to all other applicable regulations of the Zoning Code.
- (x) The site on which the conditional use is proposed must be no less than 11 acres which must be contiguous.

(xi) With respect to sites containing frontage on any lake, the plans shall demonstrate, considering a view of the site from the lake (with the proposed structure including the height, and exterior elevations visible from the lake), and the proposed landscaping, taken as a whole, that such structure will (i) be architecturally and aesthetically in keeping with the neighboring properties on the lake, and (ii) will not result in a substantial depreciation of values of other property with frontage on the lake.

(c) Procedure.

(i) Preliminary Meetings With Staff. Applicants desiring to apply for a Conditional Use are encouraged to meet with Village Zoning Administrator and Village Building Inspector to hold preliminary discussions as to the application process, the objective criteria as set forth in the Code and the concept which the applicant intends to pursue. These meetings are intended to be informational only and no action, statement, representation or decision by the Village Staff is considered binding or enforceable with respect to the Village.

(ii) Staff Review of Application. An application for a conditional use, containing either Preliminary Plans or Final Plans, shall be filed with the Zoning Administrator, who in consultation with the Building Inspector, shall make an initial finding as to whether the application is complete or whether any objective criteria is absent or not satisfied.

(iii) Preliminary Plans. With the filing of the application the applicant shall provide three (3) sets of preliminary plans which should identify:

- the conceptual design for the structure and include a depiction of all exterior evaluation;
- an estimate as to the total area of the structure;
- the surface area of the exterior walls;
- a survey identifying the location of the structure on the lot and all existing structures, driveway location;
- Exterior product and color samples;
- A statement of plan of operation; and

- A conceptual landscape plan including a storm water management plan.

The preliminary plans may not be less than 1/8' scale and shall be reviewed by the Building Inspector and the Zoning Administrator who shall determine whether the preliminary plans satisfy the requirements of the Village Code. The purpose of the Preliminary Plans is for the Plan Commission and the public to review and comment on the application prior to the applicant's submission of Final Plans. However, nothing in the Preliminary Plan review shall be considered binding with respect to the applicant or the Plan Commission.

If the Zoning Administrator finds that the application containing preliminary plans is complete and all objective criteria have been met, the application shall be presented to the Plan Commission at the next regularly scheduled Plan Commission meeting which is at least 20 days after the Zoning Administrator's finding. The Plan Commission shall review the application with the applicant or the applicant's authorized representative present, and may request such additional information as the Plan Commission desires. Such additional information and any additions, deletions or revisions to the application shall be incorporated into the applicant's final proposal which shall be filed at least 20 days before the next regularly scheduled Plan Commission meeting where the application is to be considered.

- (iv) Final Plans. After preliminary plans are submitted and reviewed by the Plan Commission, Final Plans shall be submitted which shall include three (3) complete sets of plans and specifications together with the requirements set forth in Village Code Section 6.05(4)(a).

One (1) set of the plans and specifications shall be returned after approval as hereinafter provided; the other sets shall remain on file in the office of the Clerk-Treasurer of the Village of Chenequa. All plans and specifications shall be signed by the maker. Plans for structures required to comply with the State Building Code shall bear a stamp of approval from the applicable authority. All plans shall be drawn to a scale of not less than one-eighth (1/8) inch per foot on paper and all distances shall be accurately figured.

- (v) Plan Commission/Recommendations and Village Board Review. When the application is in proposed final form, the Plan Commission shall make a recommendation to the Village Board as

to the approval or denial of the application or the conditions to apply to the proposed use. The Village Board shall initially review the application at its next regularly scheduled meeting, and at that meeting, the Village Board shall schedule a time to hold a public hearing as provided in Section 62.23(7)(d), Wis. Stats. (2003-04). Following such public hearing, the Village Board shall make a determination as to the approval or denial of the application as well as any conditions or specifications intended in the conditional use.

- (vi) Site Review. In making their respective recommendations and decisions, the Plan Commission and the Village Board shall evaluate each application and may request assistance at the expense of the applicant, from any source which can provide technical assistance. The Village Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, traffic generation and circulation, and the proposed operation and use.

- (d) Fees.

The fee for a conditional use shall be established from time to time by resolution of the Village Board. Such fee shall be paid to the Village Clerk-Treasurer and shall accompany the application for a conditional use permit.

- (e) Continuing Conditions.

In all cases in which a conditional use is granted, the Village Board shall require such evidence and guarantees as it may deem necessary as proof that the required conditions are being and will be complied with. Such evidence or guarantee may include specifications for, without limitation, the following conditions:

- (i) Specific uses;
- (ii) Control of operation;
- (iii) Hours of operation;
- (iv) Traffic circulation;
- (v) Deed restrictions;
- (vi) Setbacks and yards;
- (vii) Planting screens;
- (viii) Parking;
- (ix) Landscaping;
- (x) Type of construction;
- (xi) Construction commencement and completion dates;
- (xii) Lighting;

(xiii) Any other requirement necessary to fulfill the purpose and intent of this Section.

(f) Alteration of Conditional Use.

No alteration of a conditional use shall be permitted unless approved by the Village Board.

(5) HEIGHT RESTRICTIONS

(a) Single Family Structures. A single family structure which complies with the setback requirements of Section 6.05(6) may be erected or altered to a height not exceeding thirty-five (35) feet. The height of a single family structure on any lot abutting a lake may be increased from a maximum height of 35 feet by one foot increments for each one and one-half foot of additional side yard setback requirements of Section 6.05(6); however, the maximum height shall not exceed 40 feet for such structures. The height may further be increased to a maximum of forty-five (45) feet for all other single family structures, provided each side yard setback of such structure is increased by one and one-half feet for each additional one foot of height above thirty-five (35) feet and the lake set back of the structure is greater than 125' from the ordinary high water mark if it is a lake property. However, no single family structure shall exceed three (3) stories in height.

(b) Conditional Use Structures. Conditional use structures which comply with the setback requirements of Section 6.05(9) may be erected or altered to a height not exceeding thirty-five (35) feet. The height may further be increased to a maximum of forty-five (45) feet, provided each side yard setback of such structure is increased by one and one-half feet for each additional one foot of height above thirty-five (35) feet. However, no conditional use structure shall exceed three (3) stories in height.

(c) All Other Structures. A structure that is not a single family structure or a conditional use structure may be erected or altered to a height not exceeding thirty-five (35) feet.

(6) SETBACK/LIVING AREA RESTRICTIONS: PERMITTED USE

(a) Lot abutting Lake.

(i) No structure shall hereafter be erected, rebuilt, altered or moved on any lot in the Village of Chenequa abutting upon any lake so that the minimum distance measured over the contour of the ground between the lake frontage and nearest point of the structure or any projection thereof shall be less than 75 feet except that:

- (1) within the area located between the lake frontage and a line 30 feet distant therefrom and parallel thereto there may be constructed and maintained ground level marine railways, below-ground water pumping facilities, one uncovered stairs and one uncovered walkway level with the ground and not exceeding four feet in width; and
 - (2) within the area located between the 30 foot line referred to in (1) above and a line 75 feet from the lake frontage and parallel thereto there may be constructed and maintained uncovered terraces, patios, stairs, ground level marine railways, below-ground water pumping facilities, and walkways located at or beneath the ground level; and
 - (3) within the entire area between the lake frontage and a line 75 feet from the lake frontage and parallel thereto there may be constructed and maintained one flagpole and one satellite dish not to exceed two (2) feet in width and two and one-half (2 1/2) feet in height (and with proper landscaping surrounding it to minimize its appearance to neighbors and from the lake) for each structure and a temporary fence to be used as a goose barrier as provided in Section 5.19(3)(a) of these ordinances.
- (ii) Notwithstanding paragraph (i) above, no structure shall hereafter be erected, rebuilt, altered or moved on any lot in the Village of Chenequa abutting upon any lake if the surface area of the lake elevation of such structure shall exceed 4000 square feet, unless the minimum distance measured over the contour of the ground between the lake frontage and the nearest point of the structure or any projection thereof shall be more than 100 feet. For the purposes hereof the elevation abutting the lake shall be determined from that place on the lake from which the elevation would have the greatest surface area. Surface area shall mean the area of the entire area (including the roof area included in said elevation) within the outline of such elevation abutting the lake determined on a two-dimensional basis.
 - (iii) Notwithstanding paragraphs (i) and (ii) above, no structure, other than those set forth in Subsections 6.06(4)(i)(1), (2) and (3), shall hereafter be erected, rebuilt, altered, or moved on any lot in the Village of Chenequa abutting on any lake if the Living Area of that structure exceeds 13,000 square feet, unless the following Living Area vs. distance measured over the contour of the ground between

the lake frontage and the nearest point of the structure or any projection thereof is met:

Living Area	Distance from lake frontage
13,000 but less than 15,000 square feet	125 feet
15,000 but less than 17,000 square feet	150 feet
17,000 or greater square feet	175 feet

(b) Structure Line Set Back. No structure shall be erected, rebuilt, altered, or moved on any lot in the Village of Chenequa whose street wall is nearer than seventy-five (75) feet to the line of any public highway, and in no event nearer than twenty-five (25) feet to a rear or front lot line.

(c) Side Yard.

- (i) A side yard of six (6) inches in width for each foot in height of a structure, with a minimum of ten (10) feet shall be provided on each side of every structure. No single family structure shall be constructed within fifty (50) feet of an existing single family structure on an adjoining lot, and no accessory building or recreational facility shall be erected within one hundred (100) feet of an existing single family structure on an adjoining lot.
- (ii) For structures in the Village of Chenequa abutting upon any lake which exceed 13,000 square feet of Living Area the minimum Side Yard and minimum distance from other existing Single Family Dwellings shall be determined as follows:

Living Area	Side Yard	Distance from Other Single Family Structure
13,000 but less than 15,000 square feet	9" in width per foot of height	75 feet
15,000 but less than 17,000 square feet	12" in width per foot of height	100 feet
17,000 or greater square feet	15" in width per foot of height	125 feet

- (d) Living Area. The living area of a one-story single family structure shall be greater than 2,000 square feet. The living area of a single family structure of two or more floors shall be greater than 2,500 square feet and the first floor living area shall be greater than 1,500 square feet. This requirement for living area shall not apply to a building in existence for which a valid building permit had been issued on or before July 10, 1972, except that no existing building of this description shall be altered so as to decrease its heated living area.
- (e) Corner Lot. On any corner lot where a front or side yard is required or provided, no structure, hedge or other obstruction shall be placed so as to interfere with clear vision from one street or highway to the other across the corner.
- (f) Application. The provisions of the Village Zoning Code governing Structures having 13,000 square feet or more of Living Area are applicable to all Structures in the Village as follows:
 - (i) all new Structures proposed after February 13, 2006, the date of enactment;
 - (ii) any Buildings or Structure Alteration, Modification or Reconstruction (as defined herein) which are to be commenced after the date of enactment;
 - (iii) the finishing of any part of a Structure which was unfinished on the date of enactment.

(7) LOT AREA REQUIREMENTS: PERMITTED USE

- (a) Lot not abutting Lake. No structure shall be erected, enlarged or altered on any lot not abutting upon any lake unless such lot shall have an average width of not less than two hundred (200) feet and shall contain at least five (5) acres.
- (b) Lot abutting Lake. No structure shall be erected, enlarged or altered on any lot abutting upon any lake unless such lot shall have an average width of not less than one hundred fifty (150) feet for each lake on which the lot abuts and shall meet the following minimum requirements as to lake frontage and area: (rev. 12/10/01)

<u>Lake Frontage of Lot</u>	<u>Area of Lot</u>
150 feet or more, but less than 160 feet	4 1/2 acres
160 feet or more, but less than 170 feet	4 acres
170 feet or more, but less than 180 feet	3 1/2 acres

180 feet or more, but less than 190 feet	3 acres
190 feet or more, but less than 200 feet	2 1/2 acres
200 feet or more	2 acres

(8) **REGULATION OF BOATHOUSES.** A boathouse is a structure used for the storage of watercraft and associated materials which has one or more walls or sides. The provisions of Section 30.121, Wisconsin Statutes, are incorporated herein by reference and shall apply to any existing boathouse which extends beyond the ordinary high-water mark of any navigable waterway within the Village of Chenequa.

(9) **RESTRICTIONS APPLYING ONLY TO CONDITIONAL USES**

(a) **Setback Restrictions**

(i) **Lot abutting on a lake**

NO conditional use structure shall be located so that the distance measured over the contour of the ground between the lake frontage and the nearest point of the structure or any projections thereof shall be less than 200 feet.

(ii) **Structure Line Setback**

NO conditional use structure shall be located on any lot whose street wall is nearer than 150 feet to the line of any public roadway and in no event nearer than 75 feet from a front or rear lot line.

(b) **Lot Area and Visibility Requirements**

(i) **The total area of the footprint for all conditional use structures, roadways, driveways, parking areas, and other impervious surfaces shall not exceed the following limits, of the total area of the lot on which they are located:**

- 30% for the first 20 acres;
- 10% for every acre above 20 up to 30; and
- 5% for every acre above 30.

(ii) **Visibility of a conditional use Structure shall be screened by landscape planting and/or contours of the ground which would not allow for more than 50% of the Structure to be visible at any time from public roadways, lakes, or neighboring properties.**

6.06 RESTRICTIONS ON LAKE ACCESS.

(1) No real estate within the Village of Chenequa shall be subdivided into lots, or sold, or leased or used, or any easement therein created in such a manner as to give access by easement or otherwise to any lake to more than one (1) family, and their occasional invitees, for every two hundred (200) feet of lake frontage, except that such frontage may be reduced to not less than one hundred fifty (150) feet if the acreage requirements of Section 6.05(5) are met.

(2) Notwithstanding any other provisions of this Chapter, as amended, only persons owning or leasing lots abutting upon any lake, and their occasional invitees, shall have access to such lake, and no easements or rights shall be created in any manner as to give access to a lake by easement or otherwise over a lot abutting upon a lake.

6.07 NON-CONFORMING LOTS, USES AND STRUCTURES.

(1) LEGAL NON-CONFORMING LOT. A structure may be built on a legal nonconforming lot provided:

(a) The proposed structure complies with all applicable Code provisions and a building permit has been obtained pursuant to Section 5.03 of this Code, and

(b) Plans for the proposed structure shall be submitted to the Plan Commission for approval. The Plan Commission shall grant approval only if it finds that the lot is a Legal Nonconforming Lot as defined in Section 6.03(19) of this Chapter, and that the requirements of paragraph (a) above have been met. The Plan Commission may require the submission and preparation of whatever materials and studies it deems necessary to make its finding, including but not limited to the following:

- (i) Plans and certified survey as specified in Section 5.03(3),
- (ii) Evidence regarding the date of creation of the lot and any modifications thereto,
- (iii) Report from the Village Administrator and/or Building Inspector regarding compliance with the provisions of the Code,
- (iv) Report from the Village Attorney.

(2) LEGAL NON-CONFORMING USE. A legal non-conforming use may be continued. However, such non-conforming use may not be extended, expanded or changed except to a conforming use. Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter revert to a non-conforming use. If the non-conforming use is discontinued or terminated for a period of six (6) months, any future use shall comply with the use provision of this Code.

(3) **LEGAL NON-CONFORMING STRUCTURE.** A legal non-conforming structure may be continued. However, it shall not be changed or modified except as permitted in Section 6.07(4) or if required by law, or if it is changed to a conforming structure. Whenever a nonconforming structure has been changed to a conforming structure, it shall not revert to a nonconforming structure.

A proposed plan to change a legal non-conforming structure shall require that a building permit be obtained by the owners pursuant to Section 5.03 of this Code. Plans for the proposed modifications to the structure shall be submitted to the Plan Commission for approval.

The Plan Commission shall grant approval only if it finds that the proposed modifications comply with the provisions of the Code, including Section 6.07(4). The Plan Commission may require the submission and preparation of whatever materials and studies it deems necessary to make its finding, including but not limited to the following:

- (i) Plans and certified survey as specified in Section 5.03(3),
- (ii) Evidence regarding the date and manner in which the structure became nonconforming,
- (iii) Evidence regarding the cost of the proposed modifications, cost of prior modifications and the equalized assessed value of the structure (including independent estimates of the cost of such modifications obtained by the Plan Commission if deemed necessary),
- (iv) Report from the Village Administrator and/or Building Inspector regarding compliance with the provisions of the Code,
- (v) Report from the Village Attorney.

(4) **MODIFICATION TO LEGAL NON-CONFORMING STRUCTURE.** A modification (as defined in Section 6.03) to a legal non-conforming structure, other than a modification which makes it a conforming structure, shall be subject to the following conditions:

(a) A legal non-conforming structure may be reconstructed or altered (as those terms are defined in Section 6.03), but the aggregate cost of the reconstruction or alteration shall not during the lifetime of the structure exceed in cost, including labor, fifty percent (50%) of the equalized assessed value of the structure.

(b) As an alternative to the condition set forth in Section 6.07(4)(a), a legal non-conforming structure which is a single family structure may, at the option of the owner, be reconstructed or altered during its lifetime by an amount not to exceed a 30% increase in either footprint or living area, whichever is less. A reconstruction or alteration of a single family structure must meet the condition of either Section 6.07(4)(a) or Section 6.07(4)(b), but need not meet both conditions.

(c) The modification of a legal non-conforming structure which is not a single family structure shall not increase the scope or extent of any cooking, sleeping or toilet facilities which it currently contains.

(d) No modification shall extend or increase the structure's existing level of encroachment with respect to any setback requirements.

(e) Any reconstruction or alteration of a legal non-conforming structure must comply with the other applicable provisions of this Code.

(f) No structure which has been damaged by fire or other cause to the extent of more than fifty percent (50%) of the structure's equalized assessed value shall be repaired or rebuilt except so as to comply with the provisions of this Code and to make it a conforming structure.

(g) Any modification to a legal non-conforming structure which does not constitute reconstruction or alteration is not subject to the requirements of Section 6.07(4)(a) or (b).

6.08 CHANGES AND AMENDMENTS TO ZONING ORDINANCE AND ZONING MAP.

(1) **AUTHORITY.** Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review of the Village Plan Commission.

(2) **PROCEDURE.**

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

(b) Petitions for any change or amendment shall be filed with the Village Administrator and shall describe the proposed amendment, list the reasons justifying the petition and in the event of a proposed amendment to the zoning map, have attached the names and addresses of the owners of all properties lying within two hundred (200) feet of the area affected by the proposed change or amendment, and any additional information required by the Village administrator or Village Board.

(c) The Village Board shall hold a public hearing as provided for in Sec. 62.23(7)(d), Wis. Stats. Following such hearing, the Village Board shall make a determination.

(3) **PROTEST.** In the event of a protest against an amendment duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land

included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) 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.

6.09 REMOVAL OF SHORE COVER. (REV 9//06)

(1) **PURPOSE.** The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland into lakes which are located in or adjacent to the Village. These provisions shall also apply to the removal of dead, diseased or dying trees or shrubbery, but not to silvicultural thinning upon recommendation of the Village Forester. If there is a question as to the condition, the Village Forester must be consulted as set forth herein.

(2) **SHORELINE CUTTING.** Tree and shrubbery cutting in a strip paralleling the shoreline and extending seventy-five feet (75') inland from all points along the ordinary high-water mark of the shoreline shall be limited in accordance with the following provisions:

(a) No more than thirty feet (30') in any one hundred fifty feet (150') as measured along the ordinary high-water mark, shall be clear-cut to the depth of the seventy-five foot (75') strip.

(b) Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

(c) Any tree 6" in diameter or greater that is cut for any reason, needs to be replaced with a similar tree of 3" in diameter or greater and planted in the 75' strip.

(d) Any grading within 75' of the lake requires a grading permit as set forth in the Village Code.

(3) **PATHS.** Any path, road or passage within the seventy-five foot (75') strip shall be constructed and surfaced to control erosion effectively.

(4) **CUTTING PLAN.** As an alternative to subsection (2) above, a special cutting plan allowing greater cutting may be permitted by the Village Forester. In applying for such a plan, the lot owner shall submit a sketch of his lot to the Clerk-Treasurer, including the following information: location of parking, gradient of the land, existing vegetation, proposed cutting, and proposed replanting. The Village Forester may allow such a plan only if he finds that such special cutting plans:

(a) Will not cause undue erosion or destruction of scenic beauty, and

(b) Will provide substantial shielding from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the Village Forester may require the submission of a bond which guarantees the performance of the planned tree or shrubbery planting by the lot owner.

(5) **CUTTING MORE THAN SEVENTY-FIVE FEET INLAND.** From the inland edge of the seventy-five foot (75”) strip to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management practices and sound soil conservation practices which protect water quality.

6.10 VIOLATION, PENALTY. (REV 6/06)

(1) **FINES.** Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with the enforcement of any of the provisions of this Chapter 6, shall upon conviction thereof forfeit an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500), together with the costs of prosecution. Each offense, and each day that a violation exists shall constitute a separate offense.

(2) **RESTORATION.** In addition to the above stated fines, forfeitures, and costs of prosecution, at the order of the Village Zoning Administrator, violators of sub-section 6.09 provisions shall restore the affected area to its original condition or a condition providing the same erosion control within 60 days of notification of such violation and order. The restoration shall follow these general guidelines:

(a) In order to restore the functional value of a vegetative area as an erosion buffer, the restoration should consist of a ground cover and a tree canopy. The entire damaged shore land buffer area must be revegetated so as to prevent erosion.

(b) Trees and shrubbery removed in violation of 6.09 shall be replaced with other vegetation which can be expected to provide the same erosion control and runoff protection.

(c) The violator must submit a restoration plan for the review and approval of the Village Forester.

(d) If a property owner fails to comply with the restoration order of the Village Administrator, the Village reserves the right to bring the site into compliance and place a special assessment on the property until all costs are paid by the property owner.

6.11 INTERPRETATION AND PURPOSES. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Chapter to interfere with or abrogate or annul any existing easements or other agreements between parties, provided, however, that where this Chapter imposes a greater restriction upon the use of a structure or premises, or upon the height or bulk of the structure, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easement or agreements, the provisions of this Chapter shall control. Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number.

6.12 ZONING CERTIFICATE AND ENFORCEMENT. The Zoning Administrator shall issue a zoning certificate upon determining the proposed project complies with the provisions of this Code. The provisions of Chapter 6 shall be enforced by the Village Administrator. The Village Administrator may delegate any enforcement responsibilities hereunder to any other employee and/or official of the Village of Chenequa.

6.13 APPEALS.

(1) **PROCEDURE.** Appeals from any decision of the Village Administrator or an employee or official to whom he has delegated enforcement responsibility may be taken to the Board of Appeals by any person aggrieved, or by any officer, department or bureau of the Village. Section 1.04 of the Village of Chenequa Code shall apply to all appeals.

(2) **POWERS OF BOARD OF APPEALS.** In addition to the powers enumerated elsewhere in this Code, the Board of Appeals shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator or building inspector.

(b) To hear and decide special exceptions to the terms of this ordinance upon which such board is required to pass under this ordinance.

(c) To authorize such variance from the terms of the ordinance as provided for in subparagraph (3) following.

(d) To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Village Board has made a review and recommendation. The permit shall be temporary, be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this chapter shall be required.

(e) The Board may reverse, affirm wholly or partly, modify the requirements appealed from, or may issue or direct the issuance of a permit. The grounds of every determination shall be stated.

(f) Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

(3) VARIANCE.

(a) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in practical difficulty or unnecessary hardship, so that the spirit of the Zoning Code shall be observed, public safety and welfare secured, and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.

(b) For the purposes of this Section, “practical difficulty or unnecessary hardship” shall require a finding of the Board of Appeals of all of the following criteria:

- (i) No reasonable use can be made of the land subject to the proposed variance.
- (ii) The practical difficulty or unnecessary hardship is caused by a unique condition of the property such as exceptional, extraordinary or unusual circumstances or conditions applying to the lot, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of such a general or recurrent nature as to suggest that the Zoning Code should be changed.
- (iii) The practical difficulty or unnecessary hardship is not caused or created by the property owner or a previous owner.
- (iv) The practical difficulty or unnecessary hardship is unnecessary, so that the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located and will not undermine the spirit and general and specific purposes of the Zoning Code.

(c) The Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

6.14 SHORELAND – WETLAND.

(1) **STATUTORY AUTHORIZATION.** This Section 6.14 of the Village of Chenequa Code is adopted pursuant to the authorization in Sections 61.35 and 61.351, Wis. Stats.

(2) **PURPOSE.** The purpose of this Section 6.14 is to establish minimum standards to enable the Village of Chenequa to accomplish the shoreline protection objectives established by the state legislature. The state legislature has delegated responsibility to all municipalities to:

- (a) Promote the public health, safety, convenience and general welfare;
- (b) Maintain the storm and flood water storage capacity of wetlands;
- (c) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (e) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

(3) **DEFINITIONS.**

(a) “Shorelands” means lands within the following distances from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream to the landward side of the floodplain, whichever distance is greater.

(b) “Wetlands” means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(c) “Ordinary high-water mark” means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

(d) “Development” means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging,

filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(e) “Navigable waters” means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state; including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Wisconsin’s Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.”

(4) ANNEXED AREAS. The Waukesha County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the Village for all areas annexed by the Village after May 7, 1982. These annexed lands, if any, are described on the Village’s official zoning map. The Waukesha County shoreland zoning provisions are incorporated by reference for the purpose of administering this provision.

(5) SHORELAND-WETLAND ZONING DISTRICT ESTABLISHED.

(a) District Boundaries; Map. There is hereby established a shoreland-wetland zoning district for the Village of Chenequa which district consists of all wetlands of 5 acres or more within the Village which are shown on the final wetland inventory maps prepared for the Village by the Wisconsin Department of Natural Resources and stamped “Final” on the 21st day of March, 1990 which is made a part of this Section 6.14 of the Village of Chenequa Code which are:

- (1) Within one thousand (1,000) feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Section 6.14 of the Village of Chenequa Code.
- (2) Within three hundred (300) feet of the ordinary high water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Section 6.14 of the Village of Chenequa Code. The most recent revision of the U.S. Geological Survey Map is also adopted and made a part of this Section 6.14 of the Village of Chenequa Code.

(6) SHORELAND-WETLAND REGULATIONS.

(a) Uses Permitted in Shoreland-Wetland districts. Subject to the use regulation of the Village Zoning Code, the following are permitted:

(1) Activities and uses which do not require the issuance of a variance:

- (a) Hiking, fishing, trapping, swimming, snowmobiling and boating;
- (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
- (c) The practice of silviculture, including the planting, thinning and harvesting of timber;
- (d) The pasturing of livestock; and
- (e) The cultivation of agricultural crops.

(2) Uses which do not require the issuance of a variance and which may involve wetland alterations, only to the extent specifically provided below:

- (a) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
- (b) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
- (c) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;

- (d) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (e) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (f) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in Section 6.14(11)(d) of this Code; and
 - (g) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which are allowed upon the issuance of a zoning permit and which may include wetland alterations only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary for the continuity of the Village street system, the provision of essential utility and emergency services or to provide access to permitted shoreland-wetland uses, provided that:
 - (1) The road cannot, as a practical matter, be located outside the wetland;
 - (2) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in Section 6.14(11)(d) of this Code;
 - (3) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (4) Road construction activities are carried out in the immediate area of the roadbed only; and
 - (5) Any wetland alteration must be necessary for the construction or maintenance of the road.

- (b) The construction and maintenance of non- residential buildings provided that:
 - (1) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - (2) The building cannot, as a practical matter, be located outside of the wetland;
 - (3) The building does not exceed 500 square feet in floor area; and
 - (4) Only limited filling and excavating necessary to provide structural support for the building is allowed.

- (c) The establishment and development of outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - (1) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - (2) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Section 6.14(6)(a)(3) of this Code; and
 - (3) Wetlands alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

- (d) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:
 - (1) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

- (2) Only limited filling or excavating necessary for such construction or maintenance is allowed; and
- (3) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Section 6.14(11)(d) of this Code.

(7) **PROHIBITED USES.** Any use not listed as a permitted use in this Section 6.14 of the Village of Chenequa Code is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Section 6.14 in accordance with Section 6.14(11) of the Code.

(8) **NONCONFORMING STRUCTURES AND USES.**

(a) The lawful use of a building, structure or property which existed at the time this Section 6.14, or an applicable amendment to this Section 6.14, took effect and which is not in conformity with the provisions of Section 6.14, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

(b) The shoreland-wetland provisions of this Section 6.14 authorized by Section 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of this Section 6.14. All other modifications to nonconforming structures are subject to Section 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.

(c) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this Section 6.14.

(d) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Section 6.14 of the Village of Chenequa Code adopted under Section 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Section 6.14. However, such nonconforming use may not be extended.

(e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

(9) **ADMINISTRATIVE PROVISIONS.** The Zoning Administrator is hereby directed to administer the provisions of this Section 6.14 of the Village of Chenequa Code.

(10) **ZONING PERMITS.** Unless another section of this Section 6.14 of the Village of Chenequa Code specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as

defined in Section 6.14(3)(d) or any change in the use of an existing building or structure is initiated. A copy of any zoning permit issued hereunder shall be mailed to the district office of the Department of Natural Resources within five (5) days of issuance.

(11) AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

(a) The Village Board may amend or repeal the shoreland- wetland district boundaries and the regulations contained in this Section 6.14 of the Village of Chenequa Code in accordance with the following:

(b) A copy of each proposed text or map amendment shall be submitted to the district office of the Department of Natural Resources within 5 days of the submission of the proposed amendment to the Village Plan Commission;

(c) All proposed text and map amendments to the shore-land-wetland zoning regulations shall be referred to the Village Plan Commission for its review and report to the Village Board. No such amendments shall be made without a public hearing before the Village Board and class II notice as required by Section 62.23(7)(d)2., Wis. Stats. has been given. The district office of the Department of Natural Resources shall be provided with written notice of the public hearing at least 10 days prior to such hearing.

(d) In order to insure that this Section of the Village of Chenequa Code will remain consistent with the shoreland protection objectives of Section 144.26, Wis. Stats., the Village may not rezone a wetland in a shoreland-wetland district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

- (1) Storm and flood water storage capacity;
- (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Shoreline protection against erosion;
- (5) Fish spawning, breeding, nursery or feeding grounds;
- (6) Wildlife habitat; or
- (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(e) Where the district office of the Department of Natural Resources determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Section 6.14(11)(d), the Department of Natural Resources shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.

(f) The district office of the Department of Natural Resources shall be provided with:

- (1) A copy of the recommendation and report, if any, of the Village Plan Commission on a proposed text or map amendment, within 10 days after the submission of those recommendations to the Village Board; and
- (2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

(g) If the Department of Natural Resources notifies the Village Board in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Section 6.14(11)(d), the proposed amendment, if approved by the Village Board, shall not become effective until more than 30 days have elapsed since written notice of the Village Board approval was mailed to the Department of Natural Resources. If within the 30 day period, the Department of Natural Resources notifies the Village that the Department intends to adopt a superseding shoreland-wetland zoning Section for the Village as provided by Section 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the adoption procedure under Section 61.351(6), Wis. Stats., is completed or otherwise terminated.

(12) **NONLIABILITY OF THE VILLAGE.** The Village does not guarantee, warrant or represent that only those areas designated as parts of the shoreland-wetlands district are in fact the only wetlands within the Village and hereby asserts that there is no liability on the part of the Village, its officers, agents, or employees for any damages, of any nature, which may occur as a result of reliance upon this Section 6.14.

(13) **VALIDITY.** In the event that any provisions of this Section of the Village of Chenequa Code are found to be invalid or unconstitutional or if the application of this Section 6.14 of the Village of Chenequa Code to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Section 6.14 which can be given effect without the invalid or unconstitutional provisions or application.

(14) **PENALTY.** Any person, firm or corporation found guilty of a violation of any of the terms or provisions of this Section 6.14 of the Village of Chenequa Code shall be subject to the same penalty as is provided for in Section 1.01(9) of the Village of Chenequa Code.

6.15 RESTRICTIONS ON LAND DIVISIONS. Any owner of land within the Village of Chenequa proposing (a) to make a land division thereof into two or more parcels or lots, or (b) to sell, transfer or convey a part but not all of a parcel or lot and who determines that the proposal is not subject to the terms and conditions of Section 6.16 of the Village Code, shall file, prior to making any land division, sale, conveyance or transfer of any such property, a preliminary survey map with the Clerk of the Village showing: (rev. 12/10/01)

- (a) the external boundaries of the land to be divided, transferred, sold or conveyed;
- (b) the proposed boundaries of the parcels or lots into which the same is to be divided and the lot or parcel to which any part will be added;
- (c) the area of each such parcel or lot;
- (d) roads and easements;
- (e) the average width of each parcel or lot;
- (f) the height of existing structures and the location of existing structures with respect to adjoining roadways, lot lines, and structures on other existing or proposed parcels; and
- (g) identification of each structure containing cooking, sleeping, or toilet facilities.

Any land division or conveyance of a part of a lot or parcel shall require:

- (1) Consent of the Village Board;
- (2) that each divided part conform to the lot area requirements of Section 6.05(5);
- (3) that any existing structures on any of the divided parcels comply with the setback and height requirements of 6.05(3) and 6.05(4) after the division or conveyance, or if any existing structures are nonconforming, the nonconformance will not be increased;
- (4) that no division shall create a divided part with more than one structure containing cooking, sleeping or toilet facilities, unless such divided part existed before the division and there is sufficient acreage under Section 6.05(5) for each such structure;
- (5) that each divided part shall otherwise conform to all the requirements of the Code.

The certified survey map shall be drawn on a scale showing not more than 100 feet to an inch, and the scale used shall be indicated on the certified survey map graphically. It shall also show the location of the land by government lot, quarter-quarter section, section, township and range.

Such certified survey map shall be prepared by a surveyor who holds a valid certificate of registration granted pursuant to the laws of Wisconsin, and the information shown on the certified survey map shall be certified by such surveyor to be correct.

The sale or exchange of parcels of land between owners of adjoining property would not be restricted by the requirements of Section 6.05(5), as referred to in Section 6.15(2) above, if such sale or exchange is permitted by Wisconsin Statutes §236.45(2)(a)(3) and by all other applicable laws and ordinances. (added 9/8/03)

6.16 LAND DIVISIONS CONSTITUTING SUBDIVISIONS.

(1) **PURPOSE.** The purpose of this section is to regulate the subdivision of land to promote public health, safety and general welfare of the Village of Chenequa; to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for proper ingress and egress; and to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration, among other things of the character of the Village with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the Village. Pursuant to Section 236.45(2) of the Wisconsin Statutes, the Village adopts the following provisions which may be more restrictive than the provisions of Chapter 236 of the Wisconsin Statutes.

(2) (a) **Applicability.**

- (i) Any division of land within the Village of Chenequa and/or within its extraterritorial plat approval jurisdiction which results in a Subdivision as defined herein shall also be subject to the provisions of this Section 6.16 of the Village of Chenequa Code. Any division other than a Subdivision within the Village of Chenequa and/or within its extraterritorial plat approval jurisdiction shall continue to be subject to the provisions of this Chapter of the Village of Chenequa Code.
- (ii) No Subdivision as defined herein shall be entitled to be recorded, nor any street laid out, nor any improvements made, nor any building permit shall be issued by the Village until the provisions and requirements of this Section have been met.

(b) **Subdivision.** Subdivision shall mean the division of a parcel or tract of land by the owner or the owner's agent for the purpose of sale or of building development where:

- (i) The act of division creates four (4) or more parcels of 10 acres or less in area; or
- (ii) Four (4) or more parcels or building sites of 10 acres each or less in area are created by successive divisions within a period of five (5) years.

(3) **PROCEDURE.** The subdivider or his agent shall comply with the general principles of design and the minimum requirements for the layout of Subdivisions and other requirements and provisions set forth in this Section, and in every case shall pursue the following procedure:

(a) **Concept Approval.** The subdivider or his agent shall first file a formal application indicating intention to subdivide and submit to the Plan Commission for concept approval a concept plat and such information as may be required by the Plan Commission pursuant to Section 6.16(6) of this Code. The Plan Commission shall, within thirty (30) days of the receipt of the concept plat and all required supplemental data, approve, disapprove or approve with conditions the concept plat.

(b) **Preliminary Plat.** After obtaining concept approval, the subdivider shall prepare a Preliminary Plat of the proposed Subdivision in accordance with this Section and Section 6.16(6) of this Code and shall file copies of such plat with the Village Clerk together with the other documents required under Section 6.16(6)(b). The subdivider or subdivider's agent shall provide copies of the Preliminary Plat to all required departments or agencies of the state, county or other governmental bodies whose approval may be required. The Plan Commission shall within sixty (60) days of the filing of the Preliminary Plat with the Village Clerk, unless the time is extended by mutual agreement, recommend approval, or conditional approval or rejection of such plat and shall state in writing any conditions of approval or reasons for rejection. The Village Board shall approve conditionally, or reject such plat within ninety (90) days of the filing of the Preliminary Plat with the Village Clerk unless the time is extended by mutual agreement, and shall state in writing any conditions of approval and reasons for rejection. Approval of the Preliminary Plat and the Subdivision Improvement plans and specifications by the Village Board shall entitle the subdivider to Final Plat approval if the Final Plat is submitted within six (6) months of the Preliminary Plat approval, conforms substantially to the Preliminary Plat and conditions placed thereon and complies with the Village Code and all other applicable laws, rules, regulations and ordinances.

(c) **Subdivision Improvements.**

- (i) Following approval of the Preliminary Plat and prior to submittal of the Final Plat, the subdivider shall submit in writing with the Village Clerk, two (2) complete sets of plans and specifications for the construction of any streets or roads (whether public or private) or other Subdivision improvements within the proposed Subdivision, grading and drainage plans, and street and road, tree

and landscaping plans for approval by the Village Administrator. The Village may retain at the expense of the subdivider an engineer to review said plans and specifications for conformity to the Preliminary Plat and compliance with the design principles and other provisions set forth in this Section. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection. The subdivider shall obtain such approvals and permits from appropriate agencies as are required by state law.

- (ii) Upon approval of both the Preliminary Plat and plans and specifications for the required Subdivision improvements and the issuance of any permits by the Village and the State which may be required, the subdivider may either:
 - (1) Construct and install the required Subdivision improvements at the subdivider's expense, or
 - (2) Upon obtaining the written approval of the Plan Commission, post with the Village cash, negotiable securities, or other security running to the Village, approved by the Village to assure the satisfactory installation of the improvements and survey monuments required by this Section. The bond shall equal 110% of the estimate of the cost of such improvements as determined by the engineer appointed by the Village at the expense of the subdivider, and the engineering and other fees to be paid by the subdivider hereunder.

If the subdivider posts a surety bond or other security, the approval of the Village Board shall be necessary. The subdivider shall execute a developer's agreement with the Village in a form satisfactory to the Village Attorney and the engineer appointed by the Village, reciting the obligations for which the deposit or bond shall be security. It is understood that no occupancy permit shall be issued for any structure in the proposed Subdivision and the owner may not sell any parcel in the Subdivision until the Subdivision improvements have been installed and approved by the Village and the engineer appointed by the Village at the subdivider's expense. If a public street is a part of the Subdivision Improvements, then the Village must accept said street before the Village shall have any obligation for maintenance thereof.

Any public street installed prior to the approval of the Final Plat shall be considered dedicated upon the approval of the

Final Plat. Public streets completed under bond or other financial guarantee after the approval of the Final Plat shall be considered dedicated upon their approval and acceptance by the Village and the release by the Village of the bond or other guarantee. With respect to any public street, the subdivider shall provide a guarantee bond or security running to the Village for a period of one year after completion of construction in an amount established by the Village Board.

- (3) Final Plat. Upon completion of all improvements, the tender of waiver of liens therefor, and the payment of all costs incurred by the Village which are to be reimbursed hereunder, or the posting of cash, negotiable securities or surety bond as required by this Section, and within six (6) months after the approval of the Preliminary Plat, the subdivider shall submit to the Village Clerk, the Final Plat and such copies thereof as shall be required. The subdivider or subdivider's agent shall provide copies of the Final Plat to all required departments or agencies of the State, County or other governmental bodies whose approval may be required. The Plan Commission may waive the six (6) month time limit for filing the Final Plat. The Final Plat shall be checked for compliance with the Preliminary Plat and all conditions thereof and of this Code, and whether all required improvements have been satisfactorily completed or satisfactory cash, negotiable securities or surety bond provided. The Plan Commission shall recommend approval or conditional approval, or denial of the Final Plat within thirty (30) days of its submittal unless the time is extended by written agreement with the subdivider. The Village Board shall approve or reject the Final Plat within sixty (60) days of its submission to the Village Clerk, unless the time is extended by written agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Village Board meeting, or a copy thereof, or a written statement of such reasons shall be supplied the subdivider. After approval by the Village Board, the Final Plat shall be recorded in accordance with Section 236.25 of the Wisconsin Statutes, as amended.

(4) DESIGN PRINCIPLES FOR THE LAYOUT OF A SUBDIVISION

- (a) General. The proposed Subdivision shall conform to:

- (i) the provisions of Chapter 236 of the Wisconsin Statutes which are applicable or made applicable pursuant to the provisions of this Section;
 - (ii) all applicable Code provisions of the Village;
 - (iii) any Master Plan, as amended, of the Village;
 - (iv) any Official Map, as amended, of the Village;
 - (v) the rules of the State Department of Health relating to lot size and lot elevation if the Subdivision is not served by an operating public sewer; and
 - (vi) the rules of the State Department of Transportation relating to the safety of access and preservation of the public interest and investment in the streets if the Subdivision or any parcel contained therein abuts on a state trunk highway or connecting street.
- (b) Streets and Roads.
- (i) All streets and roads (whether public or private) in the Subdivision must be constructed at the expense of the subdivider and shall conform to the Specifications set forth herein and such Specifications established from time to time by the Village and the Engineer appointed by the Village (if any). All Plans and Specifications submitted by the subdivider shall be subject to the approval by the Village and such Engineer appointed by the Village. The specifications established by the Village (if any) shall be on file with the Clerk of the Village.
 - (ii) All streets and roads in the Subdivision shall be private roads rather than public streets, provided however, if the subdivider proposes a public street rather than a private road, the subdivider shall comply with the provisions herein and the approval of the Plan Commission and the Village Board shall be required. The concept plat, the Preliminary Plat and the Final Plat shall all clearly mark all roads and streets as being public or private. All parcels within the Subdivision shall have access to either a private road or public street.
 - (iii) The street and road lay-out shall conform with the Official Map of the Village and shall be developed and located in proper relation to existing streets and roads, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such street

or road, to existing or planned utilities and to provide each lot with satisfactory access to the street or road.

- (iv) New road or street names shall not duplicate the names of existing roads or streets within the Village or within the zip code area(s) containing any part of the Village.
- (v) Street lighting (including private roads) shall be prohibited except at intersections when deemed necessary by the Plan Commission and/or the Engineer appointed by the Village at the Subdivider's expense.
- (vi) Pavement surface course shall not be installed until at least 12 months after binder course installation. No paving shall be done after November 15 unless authorized by the Village.
- (vii) Prior to placing pavement surface course, the Village shall inspect the binder course to mark areas in need of repair. Such areas to be repaired shall be saw-cut and removed or milled to provide a suitable butt joint for new pavement.

(c) Easements for Private Roads. With respect to any private roads, appropriate written easements providing for ingress and egress from all parcels within the Subdivision and for maintenance, repair and replacement of the improvements shall be submitted to the Village Clerk for approval by the Plan Commission at the time of filing the Preliminary Plat. Such easement(s) shall be recorded prior to approval of the Final Plat.

(5) OTHER REQUIREMENTS

(a) Facilities for the distribution of electric, telephone and gas utility service within the Subdivision shall be installed underground except when the Village Board upon recommendation of the Plan Commission finds that adverse soil conditions or problems of utility distribution make such installations prohibitively expensive. Transformers, junction boxes, meter points or similar equipment may be installed upon the ground surface if the necessity, location and landscape screening plans therefore have been approved by the Plan Commission.

(b) There shall be adequate facilities to provide surface water drainage. An engineer shall be appointed at the expense of the subdivider to review surface water drainage and erosion control.

(c) Street signs shall be provided at all intersections.

(d) The subdivider shall provide a Landscape Plan to the Plan Commission pursuant to Section 6.16(3)(c). The purchase and planting of trees and shrubs along both sides of the roads (both public and private) and any cul-de-sac islands shall be provided by the

subdivider. All losses following planting will be replaced by the subdivider or the owner of the parcel as the case may be. Minimum size for planting material shall be: 2 inch trunk caliper for deciduous species, 6 foot height requirements for coniferous species, and shrubs shall be no less than 1/3 mature plant height. Unless waived due to existing tree cover or design of the approved landscape plan, trees shall be planted at a minimum rate of one tree per 25 feet of linear round surface. Trees may stand alone or be planted in groups and are to be planted outside of the utility right-of-way and beyond the ditchbank. All plantings will be performed after final grades and utility installation. The Village Board may grant variances to the tree requirements but only after recommendation for said variance is received from the Village Forester.

(e) All Subdivisions shall have a fire protection reservoir pursuant to the guidelines of the National Fire Protection Association. Any open reservoirs must be fenced in.

(6) PLATS AND DATA

(a) Preliminary Consultation Data. The following information, together with such other information as may be requested by the Plan Commission, shall be provided at the time of the preliminary consultation:

- (i) Information including data on existing covenants, land characteristics, available utilities, soil conditions relative to the feasibility of installation of on-site sewage disposal systems and information describing the Subdivision proposal such as the number of separate developable parcels, total approximate area, the approximate area of each separate parcel including width and depth, open space, tree planting, proposed protective covenants, and proposed utilities and street and road improvements (and whether public or private).
- (ii) A location map showing the relationship of the proposed Subdivision to adjacent streets, roads and properties.
- (iii) A sketch plan showing in simple sketch form the proposed layout of streets, roads and parcels and other features in relation to the existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of a topographic survey.

(b) Preliminary Plat.

- (i) The Preliminary Plat shall be drawn with waterproof, nonfading black ink or legibly drawn with pencil on tracing cloth or tracing paper of good quality on a scale of not more than 200 feet to an inch and shall show correctly on its face the following:

- (1) Date, scale and north point.

- (2) The proposed subdivision name, which shall not duplicate the name of any plat previously recorded in Waukesha County.
- (3) The name and address of the owner, the subdivider and the engineer or surveyor preparing the plat.
- (4) Location of the subdivision by government lot, quarter-quarter section, township, range and county.
- (5) A small scale drawing of the section or government subdivision of the section in which the Subdivision lies with the location of the Subdivision indicated thereon.
- (6) The exact length and bearing of the exterior boundaries of the Subdivision.
- (7) Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land.
- (8) Location, widths and naming of existing and platted streets, alleys or other public ways and easements, railroad and utility rights of way, parks, cemeteries, water courses, drainage ways, environmental corridors including wetland and floodland locations, permanent buildings, bridges and other pertinent data as determined by the Plan Commission within 300 feet of the proposed Subdivision or on property owned or controlled by the subdivider or owner.
- (9) The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams.
- (10) If the Subdivision borders a lake or stream, the distances and bearings of the meander line established not less than 20 feet back from the ordinary high water mark of the lake or stream.
- (11) Layout, width and approximate grades of all new streets and roads with the designation of being public or private, and utilities.
- (12) Approximate dimensions of and areas of parcels.
- (13) Proposed building lines.

- (14) Approximate location and area of property proposed to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the Subdivision with the conditions, if any, of such dedication or reservation.
 - (15) Contours at vertical intervals of not more than 2 feet, or at more frequent intervals if required by the Plan Commission for land of unusual terrain characteristics.
- (ii) At the time the Preliminary Plat is filed, the subdivider shall also file the following with the Village Clerk:
 - (1) Copies of any Declaration of Restrictions and any Articles of Incorporation, Bylaws or other Association documents.
 - (2) Copies of any Easements for private roads providing ingress and egress from all parcels in the Subdivision.
 - (3) Drainage and erosion control plans.
 - (4) Landscape Plan.
 - (5) Such other documents and information as requested by the Plan Commission or the engineer appointed by the Village at the subdivider's expense.
 - (iii) The subdivider shall provide such number of copies of the Preliminary Plat and other documents as requested by the Plan Commission from time to time.

(c) Final Plat. A Final Plat of the Subdivision shall comply with the requirements for a Final Plat under Sections 236.20 and 236.21 of the Wisconsin Statutes, as amended. The subdivider shall file the original Final Plat and such number of copies of the Final Plat and other documents as requested by the Plan Commission and the Village Board from time to time. A duplicate tracing on cloth of the Final Plat shall be filed with the Village Clerk. After approval, the subdivider shall have the Final Plat recorded in the office of the Register of Deeds for Waukesha County. No conveyances of any parcels within the Subdivision may be made prior to the recording of the Final Plat.

(7) SURVEY MONUMENTS. Prior to approval of the Final Plat, the subdivider shall install survey monuments in accordance with the requirements of Section 236.15 of the Wisconsin Statutes, as amended, and as may be required by the engineer appointed by the Village at the subdivider's expense.

(8) COSTS AND FEES. Any owner or subdivider desiring to subdivide land constituting a Subdivision hereunder shall be responsible to pay all costs and fees incurred by the

Village in connection with the consideration of any of the required documents hereunder, including without limitation, fees to engineers, engineering firms and attorneys. In addition, as billed by the Village, the subdivider shall pay the costs incurred by the Village for such inspections as deemed necessary by the engineer appointed by Village at the subdivider's expense to assure compliance with this Section and the Code of the Village. By resolution, the Village Board may establish such other fees applicable with respect to the consideration of Subdivisions hereunder.

6.17 CLUSTER DEVELOPMENT PROVISIONS.

(1) **APPLICABILITY.** Land of twenty (20) acres or more identified in the Village Open Space Plan as suitable for cluster development shall be eligible for cluster development provided a cluster development plan is presented by the Owner to the Village of Chenequa Plan Commission, the Plan Commission recommends approval thereof and the cluster development plan is also approved by the Village Board of the Village of Chenequa. Until a cluster development plan is approved by the Village Board, all of the Zoning Code provisions of the Village of Chenequa other than the cluster development provisions contained in this Section 6.17 shall be applicable.

(2) **REQUIREMENTS.** The following requirements shall be applicable for any cluster development:

(a) **Zoning.** All of the existing provisions of the Zoning Code of the Village shall be applicable except the following:

- (i) **Minimum Lot Size.** Cluster development plans may have lots of less than five (5) acres, but in no case shall any lot be less than two (2) acres.
- (ii) **Density.** The total number of lots on which residential structures may be constructed must average out to no more than one for every five (5) acres of the subject parcel as a whole. In computing this ratio, any land that would be ineligible for development under any existing Village code provision or State Law shall be excluded.

(b) **Plat.** In connection with every cluster development plan, a Plat must be recorded establishing compliance with the provisions of subsections (a)(1) and (2) above and must designate the remaining land as open space that shall not be permitted to be further divided or developed. The open space shall be conveyed in undivided interests to the owners of lots in the approved cluster development as tenants in common or to an Association which shall consist of all of such owners. The undivided interest in said open space or in the Association may not be transferred separately from the lot in the cluster development to which it appertains. The Association documentation and restrictive covenants preserving such open space and any modifications or amendments thereof shall be subject to the approval of the village Board. The restrictions shall be enforceable by the Village as well as the owners of lots in the cluster development.

(c) Finding. The cluster development provisions are intended to preserve open space and/or to protect and preserve scenic views along public and private roads and from existing residences. Cluster development shall be permitted only if the Plan Commission and the Village Board find that the proposed cluster development plan significantly increases the amount of open space and/or significantly protects and preserves the scenic views along public and private roads and from existing residences in the Village, as compared with development in accordance with existing zoning ordinances.

(d) Compliance with Subdivision provisions. The Owner shall comply with the Subdivision provisions contained in Section 6.16 of this Code.

(e) Costs and Fees. Any owner presenting a cluster development plan shall be responsible to pay all costs and fees incurred by the Village in connection with the consideration of such cluster development plan, including without limitation, fees to engineering firms and attorneys. By resolution the Village Board may establish such other fees applicable with respect to the consideration of cluster development plans.

6.18 OFFICIAL MAP

(1) INTENT. It is the intent of the Village Board to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness, and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to insure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds, and storm water drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

(2) JURISDICTION. The jurisdictional area of this Ordinance shall include all lands within the corporate limits of the Village of Chenequa and those areas outside the Village within the extraterritorial plat approval jurisdiction of the Village.

(3) OFFICIAL MAP. There is hereby established, as the Official Map of the Village of Chenequa, the Map that is made a part of this Ordinance bearing the date of August 9, 1999. This map is hereby designated as the "Official Map of the Village of Chenequa," and all notations, references, and other information shown thereon shall be as much a part of this Ordinance as though the matters and information thereon were fully described herein. The Official Map shall show the location and extent of all platted and existing streets and highways within the corporate limits of the Village of Chenequa and its extraterritorial plat approval jurisdiction as heretofore laid out, adopted and established by law.

(4) CHANGES AND ADDITIONS. The Village Board may change or add to the Official Map so as to establish the exterior lines of; widen; narrow; extend; or close any platted, existing, proposed, or planned streets, highway, drainageways, parkways, and parks and playgrounds, except that drainageways shall not be included on the Official Map outside of the Village limits.

The Village Board shall refer any change or addition to the Official Map to the Village Plan Commission for review and report thereon prior to adoption. The Village Plan Commission shall report its recommendation to the Village Board within sixty (60) days.

A Public Hearing of parties in interest and citizens before the Village Board shall be required before any changes or additions to the Official Map are effective. CHANGES AND ADDITIONS. The Village Board may change or add to the Official Map so as to establish the exterior lines of; widen; narrow; extend; or close any platted, existing, proposed, or planned streets, highway, drainageways, parkways, and parks and playgrounds, except that drainageways shall not be included on the Official Map outside of the Village limits.

The Village Board shall refer any change or addition to the Official Map to the Village Plan Commission for review and report thereon prior to adoption. The Village Plan Commission shall report its recommendation to the Village Board within sixty (60) days.

A Public Hearing of parties in interest and citizens before the Village Board shall be required before any changes or additions to the Official Map are effective. Notice of the public hearing shall be published as a Class II notice pursuant to Chapter 985 of the Wisconsin Statutes.

Changes and additions made by duly approved subdivision plats shall not require the public hearing if the changes or additions do not affect any land outside the area being platted.

(5) **BUILDING PERMITS AND OTHER ENFORCEMENT PROCEDURES.** The Village Official Map, as of the date of adoption of this ordinance, includes numerous existing streets and highways, and one planned highway, the latter indicated in dashed lines. The following requirements are hereby enacted by the Village of Chenequa to accomplish implementation of the Official Map solely as to the planned highway within said Official Map:

(a) Owners of property within the mapped planned highway route who propose to construct or enlarge a building that encroaches within the planned highway route shall apply to the Village of Chenequa Zoning Administrator for a Village building permit prior to commencement of construction of building. The Zoning Administrator shall make a determination whether the site of the proposed new building or building enlargement is within the Village of Chenequa extraterritorial Official Map jurisdiction based upon application of Wisconsin Statutes 66.32 to resolve overlaps in extraterritorial jurisdiction between the Village of Chenequa and the Village of Hartland. The Zoning Administrator shall then determine whether the permit must be denied on the basis that the application shows the building or building enlargement situated within the planned highway route. Such determination shall be made within 30 days of receipt of application by the Village Zoning Administrator. A notification of denial of permit shall inform the applicant of appeal rights to the Village Board of Appeals pursuant to Wisconsin Statutes 62.23(6)(e).

(b) Pursuant to Wisconsin Statutes 236.101(b)2 and 236.13(1)(c) and 236.45 and Village of Chenequa Ordinance 6.21, the planned highway route as shown on the Village of Chenequa Official Map within the Village of Chenequa extraterritorial Official Map jurisdiction

shall be a review standard for Village of Chenequa review of land subdivision matters within the Village extraterritorial subdivision review jurisdiction.

(6) **MUNICIPAL IMPROVEMENTS.** No public sewer or other municipal street utility or improvement shall be constructed in any street, highway, or parkway within the jurisdictional area of the Ordinance until such street, highway, or parkway is duly placed on the Official Map.

(7) **LAND SUBDIVISION REVIEW.** This map shall also be a review standard for Village review of land divisions.

(8) **APPEALS.** The Board of Zoning Appeals shall have the power to review any administrative decision of the Village Building Inspector to deny a permit for the erection of a structure under this Ordinance and to grant relief from the requirements of this Ordinance under the provision of Sections 62.23(6)(e), (f), and (g) of the Wisconsin Statutes.

(9) **CERTIFIED COPY OF MAP.** There shall be a certified copy of the Official Map described in Section 5. The certified copy shall be kept in the office of the Village Clerk, and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Ordinance and shall show the date of adoption of this Ordinance and shall be signed by the Village President and countersigned by the Village Clerk. Thereafter no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Village President and countersigned by the Village Clerk.

(10) **MAP TO BE FILED WITH REGISTER OF DEEDS.** The Village Clerk shall be responsible immediately upon adoption of the Official Map or any amendment thereto for recording a true copy of the Official Map, as amended, with the Register of Deeds of the County of Waukesha, Wisconsin, pursuant to and solely for the purposes specified in Wisconsin Statutes 62.23(6)(b).

(11) **ENFORCEMENT.** It shall be the duty of the Village Building Inspector and the Village Administrator to enforce the provisions of this Ordinance.

(12) **PENALTIES.** Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not more than Two Hundred Dollars (\$200.00) and not less than Fifty Dollars (\$50.00) and cost of prosecution for each separate day of violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof but not exceeding thirty (30) days.

No damages shall be allowed for the taking by any governmental agency, for street, highway, drainage way, and parkway purposes, any building erected in violation of this Ordinance.

(13) SEVERABILITY AND CONFLICT. If any section or part of this Ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. All other ordinances or parts of ordinances of the Village inconsistent with this Ordinance to the extent of the inconsistency only are hereby repealed.

(14) EFFECTIVE DATE. This Ordinance shall be effective after adoption by the Village Board and publication or posting as provided by law.

(15) REPEAL OF PRIOR USE. A prior Official Map adopted on January 12, 1998, is hereby repealed as to all mapped street or road rights-of-way beyond the municipal limits of the Village.

(16) EXTRATERRITORIAL JURISDICTION OF OTHER INCORPORATED MUNICIPALITIES. Wisconsin Statutes 66.32 shall govern the extraterritorial jurisdiction of this ordinance.

6.19 CONDITIONAL USES (1/14/02)

(1) STATEMENT OF PURPOSE – CONDITIONAL USES. The development and execution of this Article is based upon the division of the Village of Chenequa into a single district, within which district, the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in the district, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

(2) AUTHORITY OF THE VILLAGE BOARD; REQUIREMENTS.

(a) The Village Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearings, and approval from the Village Board, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. The Village Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing a permit for a conditional use. Such Board action, and the resulting conditional use permit, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

(b) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon their finding that these are necessary to fulfill the purpose and intent of this Chapter.

(c) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

(3) INITIATION OF CONDITIONAL USE. Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for a conditional use provided for in this Article in the zoning district in which such land is located.

(4) APPLICATION FOR CONDITIONAL USE. An application for a conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 7 hereinafter. The Village Board may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations. The Application shall be accompanied by payment of the fee in the amount set by the Village Board.

(5) HEARING ON APPLICATION. All requests for conditional uses shall be to the Village Board or the Village Board can, on its own motion, apply conditional uses when considering uses of Village-owned property. Upon receipt of the application and statement referred to in Section 4 above, the Village Board shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Board. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Village Board shall, by rule, prescribe from time to time.

(6) NOTICE OF HEARING ON APPLICATION. Notices of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board, and, other than for Village-owned property, the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent to at least ten (10) days prior to the date of such

public hearing. The Village Board shall, within forty-five (45) days after a matter has been referred to it, take formal action.

(7) STANDARDS – CONDITIONAL USES.

(a) Standards. No application for a conditional use shall be granted by the Village Board, unless the Board shall find all of the following conditions are present:

- (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) That the conditional use shall, except for yard requirements, conform to all application regulations of the district in which it is located.
- (7) That the proposed use does not violate flood plain regulations governing the site.
- (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (9) That when applying the above standards to any new construction of a building or an addition to an existing building, the Village Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(b) Additional Considerations. In addition, in passing upon a Conditional Use Permit, the Village Board shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) Its compatibility with uses on adjacent land.
- (8) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

(8) DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT. When a conditional uses application is denied by the Village Board, the Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Village Board has used in determining that each standard was not met.

(9) CONDITIONS AND GUARANTEES. The following conditions shall apply to all conditional uses:

(a) Conditions. Prior to granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 7 above. In all cases in which conditional uses are granted, the Village Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping;
- (2) Type of construction;

- (3) Construction commencement and completion dates;
- (4) Sureties;
- (5) Lighting;
- (6) Fencing;
- (7) Operational control;
- (8) Hours of operation;
- (9) Traffic circulation;
- (10) Deed restrictions;
- (11) Access restrictions;
- (12) Setbacks and yards;
- (13) Specified sewage disposal and water supply systems;
- (14) Planting screens;
- (15) Increased parking; or
- (16) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

(b) Site Review. In making its decision, the Village Board shall evaluate each application and may request assistance from any source which can provide technical assistance. The Village Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

(c) Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Village Board.

(d) Architectural Treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials.

(e) Sloped Sites; Unsuitable Soils. Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that

clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special constructions techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

(f) Conditional Uses to Comply With Other Requirements. Conditional uses shall comply with all other provisions of this Chapter except as noted herein.

(10) VALIDITY OF CONDITIONAL USE PERMIT. Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within 180 days of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building contract for under which construction is commenced within three (3) months of the date of issuance and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit the Zoning Administrator shall notify the holder by certified mail of such revocation. The Village Board may extend such permit for a period of sixty (60) days for justifiable cause, if application is made to the Village Board at least thirty (30) days before the expiration of said permit.

(11) COMPLAINTS REGARDING CONDITIONAL USES. The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use; the elimination, removal or discontinuance of any violation of a condition imposed prior to approval; or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 7 above, a condition approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 6 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject condition use into compliance with the standards set forth in Section 7 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subjection conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 7 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

(12) TELECOMMUNICATION FACILITIES RESTRICTIONS. The following requirements shall apply to Telecommunication Facilities:

(a) All new towers must be certified by a qualified and licensed professional engineer to be:

- (1) Designed in conformance with the latest structural and wind loading standards for the Electronics Industry Association or the Telecommunication Industry Association;
- (2) Designed in all respects to accommodate both a tower owner's antenna and comparable antenna for collocation;
- (3) Designed to allow for future rearrangement of antenna upon a tower, and to accept antenna mounted at varying heights; and
- (4) Designed to conform to all FCC and FAA requirements.

(b) For all towers requiring a conditional use permit, the Village may require a tower owner, as a condition of conditional use permit approval, and at no expense to the Village to:

- (1) Deed or transfer title of a tower, antenna and all appurtenances to the Village upon completion of construction and all required tower site plan requirements, free and clear of all liens and encumbrances excepting those acceptable to the Village; or
- (2) Enter into an agreement with the Village in which a tower owner agrees to reserve space on a tower and install telecommunication facilities on a tower for the express usage by the Village as may be necessary for police, fire or other Village services, or other recognized public purposes.

6.20 SPECIAL COMMERCIAL DISTRICT REGULATIONS. (1/14/02)

(1) PERMITTED USE. All uses in this district are conditional uses.

(2) CONDITIONAL USES. The following are conditional uses within the special commercial district:

- (a) Telecommunication Facilities.

6.21 THE ADOPTION OF THE VILLAGE OF CHENEQUA COMPREHENSIVE PLAN PURSUANT TO WIS. STAT. §66.1001 (5/15/09)

WHEREAS, §§62.23(2) and (3) and 66.1001(1)(a) and (2) of the Wisconsin Statutes, authorizes municipalities to prepare and adopt a Comprehensive Plan (a/k/a Smart Growth Plan) as defined in §66.1001 of Wisconsin Statutes;

WHEREAS, the Village of Chenequa has worked closely with Waukesha County to update the Waukesha County Development Plan, which was originally adopted by the Waukesha

County Board of Supervisors in November 1996. The Updated Waukesha County Development Plan includes amendments to the 1996 Plan in order to bring the Waukesha County Development Plan into conformance with Wisconsin's Comprehensive Planning ("Smart Growth") Law, Wis. Stat. §66.1001, as adopted by the Wisconsin Legislature in 1999. The amendment and update process has evolved since the year 2004, when a Comprehensive Plan Advisory Committee was formed; consisting of individuals representing the various communities who agreed to participate in the planning effort to formulate a revised and updated plan. Twenty-nine (29) communities, including the Village of Chenequa, plus the County participated in that planning effort and each community was individually presented on the Advisory Committee;

WHEREAS, the Village of Chenequa, as part of this planning process, has developed a new Comprehensive Plan, in conformity with the requirements of Wis. Stat. §66.1001. The Village of Chenequa's Comprehensive Plan, while patterned after the County's Updated Development Plan, is unique to the Village and addresses concerns specific to the Village;

WHEREAS, the Village of Chenequa Plan Commission and Village Board of Trustees have adopted written procedures designed to foster public participation during the preparation of the Comprehensive Plan as required by §66.1001(4)(a) of the Wisconsin Statutes; and

WHEREAS, a public hearing on the proposed Comprehensive Plan pursuant to Wis. Stat. §66.1001 was held on May 11, 2009.

WHEREAS, the Village of Chenequa Plan Commission has passed a resolution recommending the adoption of the Comprehensive Plan, containing all the required elements specified in §66.1001(2) of Wisconsin Statutes.

NOW THEREFORE, the Village Board of Trustees of the Village of Chenequa, Wisconsin do ordain as follows: that the Village of Chenequa Comprehensive Plan, pursuant to §66.1001 of Wisconsin Statutes, is hereby adopted.

SECTION 2. This ordinance shall take effect upon passage and publication as provided by Wisconsin Statutes.