

**NOTICE OF MEETING AND PUBLIC HEARING
VILLAGE OF FOX POINT
VILLAGE BOARD MEETING**

**SCHWEMER HALL – MUNICIPAL BUILDING
7200 N. SANTA MONICA BLVD
FOX POINT, WI 53217**

**TUESDAY
SEPTEMBER 10, 2019
7:00 P.M.**

AGENDA

1. Roll Call

2. Persons desiring to be heard

At this time, individuals can address the Village Board on one or more topics for up to three-minutes with time extensions at the Village President's discretion. Individuals desiring to be heard may reserve a portion of their time, or defer it altogether, to when the Board takes up an agenda item. In connection with non-agenda items, no action will be taken except for possible referrals to individuals or committees.

3. Committee Reports

a. Plan Commission

1. The Village Board will receive a report concerning the conditional use permit application for The Friendship Circle, Inc., for a coffee shop, bakery and art studio, located at 8649 N Port Washington Road, Fox Point.

4. Public Hearing

a. Proposed The Friendship Circle Conditional Use Permit Application

The Village Board will hold a public hearing to receive comments and input regarding the proposed Conditional Use Permit application for The Friendship Circle to be located at 8649 North Port Washington Road, Fox Point, for renovation to house a coffee shop, bakery and art studio pursuant to Section 745-18 of the Village Code.

5. Consent Agenda – All items listed under the Consent Agenda will be approved in one motion without discussion unless any Board member requests that the item be removed for individual discussion and possible action. Any item(s) so removed shall be considered individually prior to consideration of any New Business agenda items in the same order in which they were originally listed in the Consent Agenda.

- a.** Approve the minutes of the August 13, 2019 Village Board meeting and public hearing.
[Pages 1-5]
- b.** Grant a Conditional Use Permit to The Friendship Circle, to house a coffee shop, bakery and art studio at 8649 N Port Washington Road, Fox Point, and authorize the Village President and Village Clerk/Treasurer to sign the Conditional Use Order.
[Pages 6-22]

- c. Accept the quote of Munson, Inc. in the amount of \$23,610 for the paving of Goodrich Lane between Lake Drive and Gray Log Lane and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated August 27, 2019.
[Pages 23-25]
- d. Approve the request of Badgerland Striders to use Village streets on Sunday, October 6, 2019 for their 2019 Lakefront Marathon per the Assistant Village Manager's memorandum dated September 3, 2019.
[Pages 26-31]
- e. Confirm Village President's appointments to Board of Appeals due to a vacancy in the Alternate #1 position that runs from 2018 to 2021.
- f. Approve Payment of the Bills in the amount of \$1,043,340.73 for the period August 1, 2019 through August 31, 2019 per the report submitted by the Village Manager.
[Pages 32-48]

6. Unfinished Business

a. Property Located at 139 E. Good Hope Road

The Board will be given a status report for consideration and possible action, including a progress report, specific milestones, contracts, architectural renderings, estimates of costs and expected completion dates by owner Nagel Real Estate, LLC on the property located at 139 E. Good Hope Road.

7. New Business

a. Municipal Judge Scott Wales will provide a municipal court update and answer questions from the Village Board.

The Village Board will hear and may discuss a report from Judge Scott Wales on a municipal court update.

b. Resolution of Commendation and Appreciation – Retiring Department of Public Works Operator Walter Baehr

The Village Board will discuss and may act regarding the Resolution of Commendation and Appreciation for retiring Department of Public Works Operator Walter Baehr.
[Page 49]

c. Resolution of Commendation and Appreciation – Retiring Department of Public Works Laborer Dale Gatford

The Village Board will discuss and may act regarding the Resolution of Commendation and Appreciation for retiring Department of Public Works Laborer Dale Gatford.
[Page 50]

d. Staff presentation on the Fence Ordinance.

The Village Board and staff may discuss the village fence ordinance.

e. Staff presentation considering the powers of the Board of Appeals

The Village Board will receive a presentation from staff and may discuss the powers of the Board of Appeals.

[Pages 51-64]

f. Consideration of possible referral to Plan Commission of a draft Ordinance to Repeal and Re-create Chapter 540 of the Village of Fox Point Village Code entitled “Signs”

The Village Board may refer to the Village Plan Commission a draft ordinance that would repeal and re-create Chapter 540 of the Village of Fox Point Village Code entitled “Signs,” for the Plan Commission to make a report and recommendation to the Village Board about possible adoption of the ordinance.

[Pages 65-83]

g. Staff presentation on Building Board

The Village Board will receive a presentation from staff and may have a discussion regarding the Building Board and the process.

[Pages 84-92]

h. Comprehensive Plan Special Committee Report

The Village Board will receive a report regarding the Comprehensive Plan Special Committee.

8. Future Agenda Items

The Village Board will act on any Trustee requests to place additional matters on an upcoming agenda, without discussion.

9. Announcements

The following individuals will be given the opportunity to make announcements at the meeting in regard to (i) actions taken since the previous Village Board meeting on behalf of the Village, (ii) future Village activities and (iii) communications received from citizens. These matters will not be discussed or acted on, and Board members shall not comment on matters announced by others. Referrals may be made to committees and/or individuals.

- a. Village President Frazer
- b. Trustee Fonstad
- c. Trustee Symchych
- d. Trustee Sumner
- e. Trustee Tirado
- f. Trustee Kravit
- g. Trustee Ollman
- h. Village Manager Scott Botcher

10. Closed Session

It is anticipated the Village Board will convene into closed session for the following reasons:

- a. Pursuant to State Statutes Section 19.85(1)(g), to confer with counsel who is rendering legal advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved involving properties located at 139 E. Good Hope Road. Participating in this portion of the closed session will be the Village Board, Village Manager, Village Attorney, Village Assistant Manager, Public Works Director, and Village Clerk Treasurer.

11. Reconvene and Possible Action on Closed Session Items

The Village Board will reconvene into open session and may take action on the above described matters which were considered in closed session.

12. Adjourn

NEXT REGULAR VILLAGE BOARD MEETING: OCTOBER 8, 2019 7:00 P.M.
SPECIAL VILLAGE BOARD MEETING: OCTOBER 10, 2019 7:00 P.M.

*PLEASE NOTE: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aids. For additional information or to request these services, contact the Village Clerk at (414) 351-8900.
"Persons requiring an interpreter or other assistance should contact the Village Clerk's office 72 hours prior to the meeting. Notice is hereby given that a majority any other board, commission or committee may be present at the meeting to gather information about a subject in which they are interested. This constitutes a meeting of any other board, commission or committee pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis. 2d 553, 494 2d 408 (1993), and must be noticed as such, although said boards, commissions or committees will not take any formal action at this meeting."*

**VILLAGE OF FOX POINT
VILLAGE BOARD MINUTES
AUGUST 13, 2019**

A meeting and public hearing of the Fox Point Village Board was held on Tuesday, August 13, 2019 in Schwemer Hall, 7200 N. Santa Monica Boulevard. President Frazer called the meeting to order at 7:00 p.m., noting there was a quorum and asked the Village Clerk-Treasurer to take roll call. Roll Call of the Village Board present included:

Village President Douglas H. Frazer
Trustee Eric Fonstad
Trustee Christine Symchych
Trustee Liz Sumner
Trustee Marty Tirado
Trustee Greg Ollman

Those absent included:

Trustee Bill Kravit

Also, present were Village Attorney Val Anderson, Village Manager Scott Botcher, Assistant Village Manager Michael Pedersen, Police Chief Chris Freedy, Public Works Director Scott Brandmeier, North Shore Library Director Susan Draeger-Anderson (8:12 p.m. arrival), and Village Clerk Treasurer Kelly Meyer.

Notice of the meeting was provided to the North Shore Now and to all others as required by State open meetings laws and posted on the official bulletin board at 7200 N Santa Monica Boulevard, as well as the village website at www.villageoffoxpoint.com, as per 2015 Wisconsin Act 79 and as described in Village Ordinance Chapter 116-2, 116-2(C).

Persons desiring to be heard

President Frazer opened public comment with a brief synopsis. Hearing no comments, closed the public comment period.

Plan Commission

Village Board received a report from Trustee Fonstad regarding the August 12, 2019, Plan Commission's consideration of the application of Fox Point Lutheran Church Site Plan, Floor Plans, Proposed Addition and Parking Lot changes per Section 745-20 B. (2) of the Village of Fox Point Code. This was a continuation of a preliminary application that was submitted in June of 2019. Preliminary citizen concerns were lighting, green buffering, and encroachment into the village right-of-way for parking. At its meetings on August 12, 2019, the Plan Commission reviewed the updated application which addressed the concerns from June 2019. The Plan Commission determined the four standards had been met and the ordinance satisfied. The Plan Commission recommended to the Village Board approval of the application.

Public Hearing. The proposed Fox Point Lutheran Church Site Plan, Floor Plans, Proposed Addition and Parking Lot Changes per Section 745-20 B. (2).

Open Public Hearing

**VILLAGE OF FOX POINT
VILLAGE BOARD MINUTES
AUGUST 13, 2019**

Motion made by President Frazer, seconded by Trustee Ollman, and carried unanimously, the Village Board opened the public hearing at 7:07 p.m. for the public hearing agenda item 4a, the proposed Fox Point Lutheran Church Site Plan, Floor Plans, Proposed Addition and Parking Lot Changes per Section 745-20 B. (2).

John Heilman, 7505 N Santa Monica Blvd.

Mr. Heilman commented he is in favor of Fox Point Lutheran Church's proposal. Mr. Heilman has been a neighbor of the church; the church has been a fantastic neighbor, good stewards, and improves the value of the neighborhood.

Bob Cory, 7740 N Santa Monica Blvd.

Mr. Cory has concerns regarding enough parking for the church.

Mark Grady, 8425 N Indian Creek Parkway

Mr. Grady noted that the majority of the church members are overwhelmingly in favor of this project. This project is vital, vibrant religious institutions in the community and to the growth of the church membership. The expansion of the building is at the back of the building not at the front of the building. Therefore, no changes are being made to the architectural appearance of the front of the building.

There were no other comments.

Close Public Hearing

Motion made by President Frazer, seconded by Trustee Tirado, and carried unanimously, the Village Board closed the public hearing at 7:16 p.m. for agenda item 4a, the proposed Fox Point Lutheran Church Site Plan, Floor Plans, Proposed Addition and Parking Lot Changes per Section 745-02 B. (2).

Consent Agenda

- a. Approve the minutes of the July 9, 2019 Village Board meeting and public hearings.
- b. Approve an Ordinance amending portions of Section 63-6 of the Village of Fox Point Village Code concerning fees charged under the Wisconsin public record laws.
- c. Accept the proposal of Consolidated Doors, Inc. of Milwaukee in the amount of \$17,130.00 for replacement of the village hall DPW service doors, frames and hardware and authorize the Village Manager to execute the purchase order per the Assistant Director of Public Works memorandum dated August 13, 2019.
- d. Accept the Public Participation Plan per the Assistant Village Manager's memo dated August 5, 2019.
- e. Confirm the Village President's reappointment of Kurt Ostoic to the Board of Appeals.
- f. Confirm Village President's appointment of Jonathan H. Margolies to Ethics Board.

**VILLAGE OF FOX POINT
VILLAGE BOARD MINUTES
AUGUST 13, 2019**

- 99 g. Accept the proposal of Kapur & Associates in an amount not to exceed \$59,976 for the
100 design of the 2020 road and utility reconstruction project along Santa Monica Boulevard
101 (School Road to Yates Road), Acacia Road and Regent Road (Bradley Road to Dean
102 Road) and authorize the Village President and Village Clerk/Treasurer to sign the
103 agreement per the Director of Public Works' memorandum dated August 8, 2019.
104
- 105 h. Accept the proposal of Kapur & Associates in an amount not to exceed \$12,982 for the
106 design of a bio-retention facility and bluff/stormwater improvements in the ravine
107 adjacent to 6880 North Barnett Lane and authorize the Village President and Village
108 Clerk/Treasurer to sign the agreement per the Director of Public Works' memorandum
109 dated August 8, 2019.
110
- 111 i. Accept the proposal of Short Elliott Hendrickson (SEH) in the amount of \$50,606 for the
112 analysis of the 12-inch water mains along Santa Monica Boulevard and Yates Road
113 (from School to Green Tree) and authorize the Village President and Village
114 Clerk/Treasurer to sign the agreement per the Director of Public Works' memorandum
115 dated August 8, 2019.
116
- 117 j. Approve the Intergovernmental Cooperation Agreement with the Milwaukee
118 Metropolitan Sewerage Association (MMSD) for the installation of Green Infrastructure
119 (a StormGUARDen structure) at Village Hall and authorize the Village President and
120 Village Clerk/Treasurer to sign the agreement per the Director of Public Works'
121 memorandum dated August 8, 2019.
122
- 123 k. Approve Payment of the Bills in the amount of \$435,297.43 for the period July 1, 2019
124 through July 31, 2019 per the report submitted by the Village Manager.
125

126 Trustee Fonstad requested removal of agenda item 5d.
127

128 *Motion made by President Frazer, seconded by Eric Fonstad, and carried*
129 *unanimously, the Village Board approved the consent agenda as presented,*
130 *absent consent agenda item 5d.*
131

132 **Property Located at 139 E. Good Hope Road**
133

134 Property owner Andrew Nagel gave a brief update regarding 139 E. Good Hope Road.
135 Mr. Nagel stated he received finished plans from his Architect/Engineer which will be submitted
136 tomorrow or next week along with the building permit application.
137

138 No action was taken.
139

140 **Consideration of an Ordinance to Create Section 579-17.7 of the Village of Fox Point**
141 **Village Code Concerning Beekeeping**
142

143 *Motion made by President Frazer, seconded by Trustee Fonstad, the Village*
144 *Board accepts the pending motion regarding Ordinance to Create Section 579-*
145 *17.7 of the Village of Fox Point Village Code concerning beekeeping, as outlined*
146 *starting on page 124 of the agenda packet.*
147

148 President Frazer called the question.

**VILLAGE OF FOX POINT
VILLAGE BOARD MINUTES
AUGUST 13, 2019**

Motion passed, 5-1 (Opposed-Trustee Tirado).

Comprehensive Plan and Public Participation Plan per the Assistant Village Manager's memo (Item 5d)

Trustee Fonstad distributed his written comments to the Board regarding concerns on the Comprehensive Plan Public Participation Plan (the "draft plan"), including nine items that he would like to see included in the plan.

Beth Gregg, 7414 N Boyd Way

Ms. Gregg suggested placing public participation plan information on garbage receptacles or door hangers for a better response.

Motion made by President Frazer, seconded by Trustee Tirado, to accept the public participation plan per the Assistant Village Manager's memo dated August 5, 2019.

Motion to amend made by Trustee Fonstad to accept the plan as proposed with the provision that the Special Committee give due consideration to incorporating the nine points in his memo submitted tonight. Motion died for lack of a second.

Original motion passed 5-1 (Opposed-Trustee Fonstad).

Approval of Resolution Concerning Conveyance of Property from Kenneth E. Leindecker to the Village of Fox Point

Motion made by Trustee Sumner, seconded by President Frazer, and carried unanimously the Village Board adopted resolution concerning conveyance of property from Kenneth E. Leindecker upon terms outlined in the Quit Claim Deed to the Village of Fox Point.

Approval of Fox Point Lutheran Church Site Plan, Floor Plans, Proposed Addition and Parking Lot Changes per Section 745-20 B. (2) of the Village of Fox Point Code

Pastor Knapp gave a brief background of the proposed Fox Point Lutheran Church Plans for additions and changes.

Motion made by President Frazer, seconded by Trustee Fonstad, and carried unanimously the Village Board approved Fox Point Lutheran Church Site Plan, Floor Plans, Proposed Addition and Parking Lot Changes per Section 745-20 B. (2) of the Village of Fox Point Code, as presented starting on page 1 of the agenda.

Future Agenda Items – none

Announcements

**VILLAGE OF FOX POINT
VILLAGE BOARD MINUTES
AUGUST 13, 2019**

Motion made by Trustee Fonstad, seconded by Trustee Ollman, and carried unanimously to suspend the rules to receive a short presentation by Library Director Susan Draeger-Anderson.

North Shore Library Director Susan Draeger-Anderson gave a brief status report on the North Shore Library.

Trustee Fonstad announced Tree Commission will meet this Thursday afternoon, August 15, 2019. Trustee Fonstad commented on ash trees on private property and the upcoming Indian Creek tree restoration project.

Trustee Sumner announced the final concert of the Fox Point Foundation Summer Serenade Concert Series is Wednesday, August 21, 2019 at Maple Dale School.

Trustee Tirado reported there has been good response to the pool survey as participation approaches 40% of village households. The research company conducting the survey will need a portion of September to compile the results.

Village Manager Scott Botcher announced:

The October meeting date should be rescheduled due to a conflict. All Board members will be receiving a note in regard to the change. On October 8, 2019, the Board will need to meet briefly and on Thursday, October 10, 2019, Village Board regular village board business will take place.

At a ceremony on June 5, 2019 in Madison, the Wisconsin Department of Natural Resources Invasive Species Council conferred on President Frazer the Invader Crusader Award.

Net new construction numbers have been e-mailed to all of the Board members. We are in a much stronger financial position. Ninety three percent is the current ratio with pretty strong sales numbers.

Closed Session

Motion made by President Frazer, seconded by Trustee Fonstad, and carried unanimously by roll call vote (6-0), the Village Board agreed not to convene into closed session pursuant to State Statutes Section 19.85(1) (g), to confer with counsel who is rendering legal advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved involving properties located at 139 E. Good Hope Road.

Adjourn

Motion made by President Frazer, seconded by Trustee Tirado, and carried unanimously, the Village Board adjourned the Village Board meeting at 8:30 p.m.

VILLAGE OF FOX POINT

7200 N Santa Monica Blvd
Fox Point WI 53217
Phone: 414-351-8900
Fax: 414-351-8909
Website: www.vil.fox-point.wi.us



Memo

Date:	August 7, 2019
To:	Building Inspector Michael Rakow Public Works Director Scott Brandmeier
From:	Jeanne O'Brien, MMC/CPC/WCMC, Village Deputy Clerk/Treasurer jobrien@villageoffoxpoint.com
Re:	Conditional Use Application – The Friendship Circle, Inc., 8649 N Port Washington Rd

Please review the attached Conditional Use Application and complete page 6 of the packet. When you have completed your review, please route the materials to Scott Brandmeier.

After the Application has been fully reviewed and comments written, please return the documents to me **as soon as possible**. This is to be considered at the September 3, 2019 Plan Commission meeting.

Thank you!

APPLICATION FOR CONDITIONAL USE PERMIT

This application must be fully completed to be considered by the Village. A \$300.00 fee (non-refundable) must accompany this application.

Section I

Name of Business: The Friendship Circle, Inc.

Fox Point Business Address: 8649 North Port Washington Rd.

Local Telephone Number: 414-755-5855

Email Address: lstein@fcwi.org

Contact Person: Levi Stein

Name of Former Tenant (if known): North Shore Bistro

Section II: If the business is a corporation, please complete the following section. If not, skip to the next section.

Legal name of the Corporation: _____

Address of the Corporate Headquarters: _____

Telephone Number of Corporate Headquarters: _____

Email Address for Corporate Headquarters: _____

Names and addresses of all Corporate Officers: _____

Name and address of the Corporate Agent: _____

Section III: If the applicant(s) is an individual or partnership, please complete the following section.

Names, home and business addresses and home and business telephone numbers of all Applicants

Names, addresses and phone numbers of all owners if different from Applicant: _____

Section IV: All applicants must complete the remaining section.

Applicant's specific interest in site: To be the home of The Friendship Circle,
which will host a coffee shop, bakery and art studio.

Square footage of site: 6,139 sq. ft.

Describe site and attach plan: See directions for the Conditional Use Permit. The site plan must include a layout of the inside of the store. Front of house will be a coffee shop and
the back will be a bakery/Kitchen and art studio.

Describe in detail the business activity that will take place on site, including products and services:

The bakery, coffee shop and art studio will employ adults with
special needs under professional mentorship and will be
open to the community for retail, events and inclusion.

VILLAGE OF FOX POINT
APPLICATION FOR CONDITIONAL USE PERMIT

PAGE 5

Describe all owned fixtures, furniture, and equipment to be used on site: All Kitchen
equipment and furniture will be purchased by The
Friendship Circle.

Describe all leased fixtures, furniture, and equipment to be used on site: N/A

Number of actual or anticipated employees: 12 available positions will be filled with
rotating shifts daily.

Number of parking spaces to be used by business (employees and customers/clients):

Average of 15-30 at a time.

Proposed days and hours of operation: Sunday-Friday 6:30 am - 7 pm.

Describe any alterations planned for the site: Opening a doorway between the
Coffee Shop and Art Studio. Enclosing the quiet room
as seen on plans, painting the entire space, adding new
signs, and bringing the space back to life.

If there are alterations, what is the estimated cost of the renovation? \$65,000

Person responsible for obtaining a building permit (if required):

Levi Stein

Proposed date of occupancy: October 22nd, 2019

ML
Business Owner - Signature

8/5/19
Date

Levi Stein
Business Owner - PRINTED Name

VILLAGE OF FOX POINT
APPLICATION FOR CONDITIONAL USE PERMIT

PAGE 6

TO BE COMPLETED BY THE VILLAGE OF FOX POINT

Has sufficient site plan(s) been submitted? (If not, what is needed?) _____

What is the category of proposed use? COFFEE SHOP, BALCONY & ART STUDIO ma 8-8-19

Does the parking meet code requirements? Part of an existing facility

Is there proper exterior lighting? where the requirements have been previously addressed & approved. 08/12/19 SJB

Are there any existing code violations? NO ma 8-8-19

Additional Comments? _____

Letter of Consent received from owner? yes

Comments/Date

Date application/materials received: 8/7/19

Fee Paid: 8/12/19 Receipt No. 1.054551

STATE OF WISCONSIN

VILLAGE OF FOX POINT

MILWAUKEE COUNTY

PROFESSIONAL FEES REIMBURSEMENT FORM

PLEASE BE ADVISED: Chapter 67, Article III of the Village of Fox Point Village Code is incorporated herein. Pursuant to this Ordinance, the Village of Fox Point Village Board has determined that whenever the services of the Village Attorney, Village Engineer, Village Forester or any other of the Village's professional staff (internal or independently contracted) results in a charge to the Village for that professional's time and services and such service is not a service supplied to the Village as a whole, the Village Treasurer shall charge the property owner for the fees incurred by the Village.

Also be advised that pursuant to the Village of Fox Point Municipal Code certain other fees, costs and charges are the responsibility of the property owner making application to the Village.

I, the undersigned, have been advised that, pursuant to the Village of Fox Point Village Code, if the Village Attorney, Village Engineer, Village Forester or any other Village professional (internal or independently contracted) provides services to the Village as a result of my activities, whether at my request or at the request of the Village, I shall be responsible for the fees incurred by the Village. Also I have been advised that pursuant to the Village of Fox Point Village Code certain other fees, costs and charges are my responsibility.

Dated this 5th day of August, 2019.

Shake Sanders, Asset Manager
Signature of Property Owner

Shake Sanders, Asset mgr.
Name of Property Owner - PRINTED

Mailing Address of Property Owner:

c/o Midland Management, LLC
555 W Brown Deer Rd #220
Milwaukee WI 53217

Tax Key No. of Property:

053-8989-001

Address of Property:

8649 N Port Washington Rd
Fox Point, WI 53217

For Village Use Only:

☒ Original kept on file with Village Clerk.

☒ Copy provided to Property Owner. mailed 8/15/19

Signature: Leanne O'Brien

Midland Management, LLC

555 W. Brown Deer Road, Suite 220, Milwaukee, Wisconsin 53217

August 5, 2019

Village Plan Commission
Village of Fox Point
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

Plan Commission Members:

The purpose of this correspondence is to support the Conditional Use Order application of Friendship Circle, relative to their anticipated occupancy of space located at 8649 N Port Washington Road in the Riverpoint Village Shopping Center.

It is North Shore Centers Partners' intent to lease space to Friendship Circle that has sat vacant since the previous tenant (North Shore Bistro) vacated in 2015.

The subject space consists of approximately 6,139 square feet and is located near the southeast corner of the Shopping Center.

Friendship Circle services will consist of a coffee shop, bakery and an art studio.

If there should be any questions regarding this future tenant, please don't hesitate to contact our office at (262) 643-4430.

Thank you in advance for your consideration of and attention to this matter.

Sincerely,



Sheila S. Sanders
Midland Management, LLC
Managing Agent to North Shore Centers Partners

VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217

414-351-8900

Receipt No: 1.054551

Aug 12, 2019

CUP Friendship Circle

Previous Balance:	.00
LICENSES & PERMITS - CONDITIONAL USE PERMIT	300.00
24-44550 CONDITIONAL USE PERMIT	
Total:	300.00
CHECK	300.00
Check No: 9045	
Payor: CUP Friendship Circle	
Total Applied:	300.00
Change Tendered:	.00

08/12/2019 2:25 PM

2

Architect
259 South Street, Suite B
WAUKESHA, WI 53186
p: 833-380-6180
e: jdb@thrive-architects.com

FRIENDSHIP CIRCLE BAKERY

3649 N Port Washington Road
Fox Point, WI 53217

Sheet Title _____

VICINITY MAP
SCALE: N.T.S.

Sheet No. _____

T1.0

[illegible]

THRIVE
ARCHITECTS

Architect
259 South Street, Suite B
WAUKESHA, WI 53186
p: 833-380-6180
e: jdb@thrive-architects.com

Project Info. —19033

FRIENDSHIP
CIRCLE BAKERY
INTERIOR ALTERATION

8649 N Port Washington Road
Fox Point, WI 53217

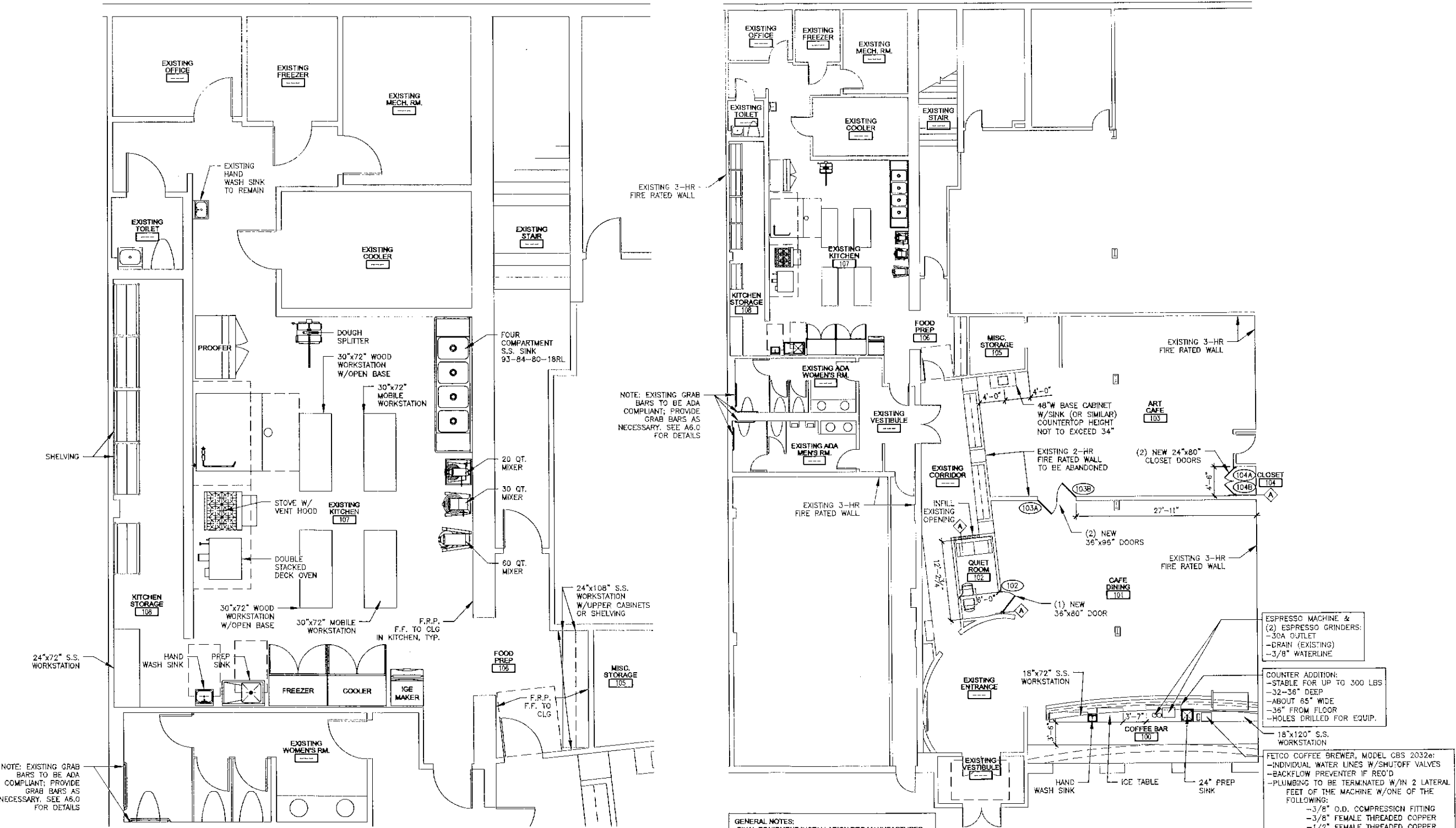
Sheet Title

FLOOR PLAN

Revisions		
No.	Date	Description
	07-29-19	Permit Set

Sheet No.

A1.0



ENLARGED KITCHEN PLAN
SCALE: 1/4" = 1'-0" @ 34x22 (1/8" @ 11x17)

FLOOR PLAN
SCALE: 1/8" = 1'-0" @ 34x22 (1/16" @ 11x17)

THRIVE

ARCHITECTS

Architect
259 South Street, Suite B
WAUKESHA, WI 53186
p: 833-380-6180
e: jdb@thrive-architects.com

Project Info. —19033

FRIENDSHIP
CIRCLE BAKERY

INTERIOR ALTERATION

8649 N Port Washington Road
Fox Point, WI 53217

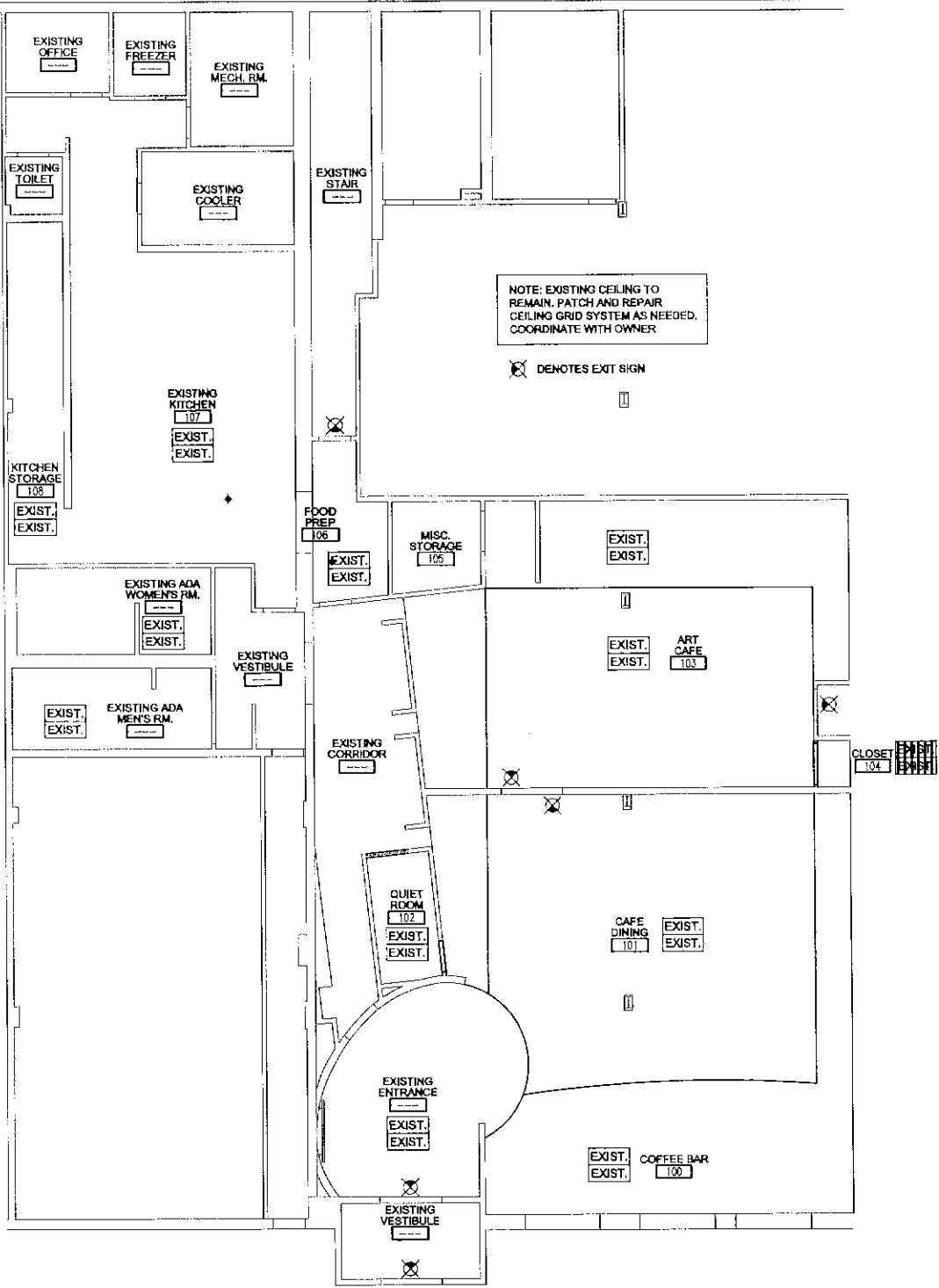
Sheet Title

REFLECTED CEILING
PLAN

Revisions		
No.	Date	Description
	07-29-19	Permit Set

Sheet No.

A2.0



REFLECTED CEILING PLAN

SCALE: 1/8" = 1'-0" @ 34x22 (1/16" @ 11x17)

1

N

THRIVE

ARCHITECTS

Architect
259 South Street, Suite B
WAUKESHA, WI 53186
p: 833-380-6180
e: jdb@thrive-architects.com

Project Info. —19033—

FRIENDSHIP
CIRCLE BAKERY

INTERIOR ALTERATION

8649 N Port Washington Road
Fox Point, WI 53217

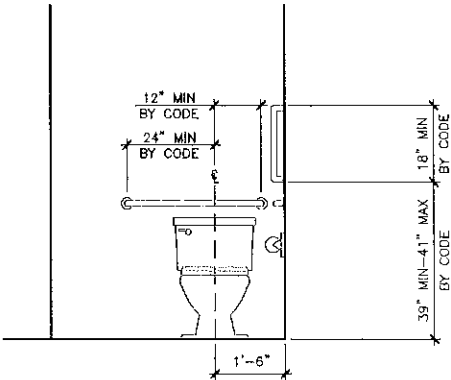
Sheet Title

WALL, FRAME, &
DOOR TYPES

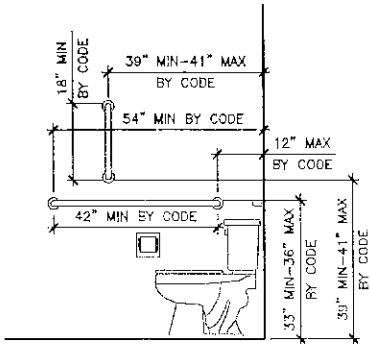
Revisions		
No.	Date	Description
	07-29-19	Permit Set

Sheet No.

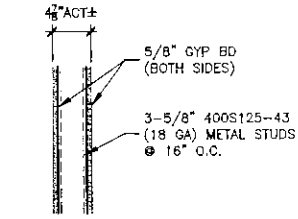
A6.0



ADA GRAB BARS
SCALE: N.T.S.



ADA GRAB BARS
SCALE: N.T.S.



EXTEND WALL TO UNDERSIDE
OF DECK (FLOOR/TRUSSES)

WALL TYPE A
SCALE: N.T.S.

NOTE #1:
ALL SELECTIONS MUST SATISFY CODE AND
OWNERS REQUIREMENTS.

DOOR SCHEDULE							
DOOR NUMBER	ROOM NAME	NO. OF PANELS	SIZE		DOOR TYPE	FRAME TYPE	FIRE RATING
			WIDTH	HEIGHT			
102	QUIET ROOM	1	3'-0"	6'-8"	D1	F1	
103A	ART CAFE	1	3'-0"	8'-0"	D2	F1	
103B	ART CAFE	1	3'-0"	8'-0"	D2	F1	
104A	CLOSET	1	2'-0"	6'-8"	D1	F1	
104B	CLOSET	1	2'-0"	6'-8"	D1	F1	
NOTES: 1. DOOR HARDWARE IS NOT SPECIFIED; HARDWARE COORDINATION MEETING WITH OWNER, DOOR SUPPLIER AND G.C. IS REQUIRED. 2. G.C. TO SUPPLY ALL DOOR HARDWARE REQUIRED BY CODE. 3. DOOR HARDWARE SHALL COMPLY WITH ICC/ANSI A117.1 SEC 404.2.6 — HANDLES, PULLS, LATCHES, LOCKS, AND OTHER OPERABLE PARTS ON ACCESSIBLE DOORS SHALL HAVE A SHAPE THAT IS EASY TO GRASP WITH ONE HAND AND DOES NOT REQUIRE TIGHT GRASPING, PINCHING OR TWISTING OR THE WRIST. THE HARDWARE SHALL BE PLACED AT LEAST 34 INCHES, BUT NOT MORE THAN 48 INCHES ABOVE THE FLOOR SURFACE.							

FRAME TYPES

F1

INTERIOR
SEE SCHEDULE

SEE SCHEDULE

DOOR TYPES

D1

INTERIOR
SEE SCHEDULE

SEE SCHEDULE

D2

INTERIOR
SEE SCHEDULE

SEE SCHEDULE

FINISH FLOOR

10"

TRIM / FRAME: WOOD, STAIN GRADE
FINISH: MATCH EXISTING.
COORDINATE COLOR WITH OWNER

THICKNESS: 1-3/4"
MATERIAL: WOOD, STAIN GRADE
PANEL: FLUSH SOLID CORE
FINISH: MATCH EXISTING.
COORDINATE COLOR WITH OWNER
GLAZING: NONE
HARDWARE: SEE NOTE #1

THICKNESS: 1-3/4"
MATERIAL: WOOD, STAIN GRADE
PANEL: FULL LITE
FINISH: MATCH EXISTING.
COORDINATE COLOR WITH OWNER
GLAZING: TEMPERED, CLEAR
HARDWARE: SEE NOTE #1

Conditional Use Order

WHEREAS, an application has been filed by The Friendship Circle, Inc., (hereinafter "Applicant"); and

WHEREAS, the Applicant is requesting that a conditional use permit be granted pursuant to the Zoning Ordinance of the Village of Fox Point for land described as 8649 N. Port Washington Rd., Fox Point, Wisconsin, as further described on Exhibit A attached hereto and incorporated herein (hereinafter "Subject Property").

NOW, THEREFORE, the Village of Fox Point Village Board, upon consideration of thoughts expressed by all persons heard at the Village Board meeting in this matter, upon consideration of the recommendation from the Plan Commission, and following all necessary study and investigation, having given the matter due consideration, hereby ORDERS AS FOLLOWS: Commencing upon the date hereof, the Applicant is hereby granted a conditional use permit, subject to initial and continued compliance with each and every one of the following conditions, restrictions and limitations.

1. Use Restricted. The Friendship Circle, Inc. will operate a coffee shop, bakery and art studio, and will employ adults with special needs under professional mentorship for retail sales, events and inclusion, subject to the terms of this Conditional Use Permit. The interior will be renovated at this location as described in the Applicant's application, subject to the terms of this Conditional Use Permit. The hours of operation shall be limited to 6:30 a.m. until 7:00 p.m. Sunday through Friday, unless additional hours are approved in writing by the Village Manager.
2. Presentation Compliance. All of the Applicant's plans, specifications, terms and representations as submitted with the application, or in support thereof, or as represented to the Village Board in the course of the approval process, are specifically incorporated herein and made a part hereof by reference, and the use of the subject property shall be in substantial conformance with the same except as further restricted or modified herein.
3. Not Transferable. This conditional use permit is granted to the Applicant and shall not be transferred or assigned without the Village Board's prior written consent, which may only be granted following the Village Board's receipt of a recommendation from the Plan Commission.
4. Applicant and Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the Applicant is required to accept the terms and conditions of the same in its entirety in writing.
5. Other Uses Prohibited. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to whether a use is permitted, the question shall be submitted to the Plan Commission for recommendation to the Village Board, and then to the Village Board for determination.
6. No Nuisances, and Compliance with Applicable Laws. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Milwaukee, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.
7. Subject Property Only. This conditional use hereby authorized shall be confined to the Subject Property described, without extension or expansion other than as noted herein.
8. Abandonment. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the Applicant be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Village Board following receipt of a recommendation from the Plan Commission and after the Village Board

holds a public hearing in the matter.

9. Amendments. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the Subject Property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
10. Plan Amendments. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended (a) without separate approval in the limited circumstances described in Section 14.19(11) of the Village Code; or (b) by the Village Board upon receipt of a recommendation from the Plan Commission if the Village Board finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village Board, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.
11. Severability. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
12. Most Restrictive Applies. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
13. Prior Conditional Use Permits Terminated. Unless stated otherwise herein or in the documents incorporated herein, all conditional use permits previously granted for the Subject Property, if any, shall be automatically terminated without further action of the Village Board immediately following full satisfaction of all conditions precedent to this conditional use order taking effect.
14. Payment of fees. Applicant shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this conditional use order including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional use order due to a violation of these conditions.
15. Payment of Taxes and Charges. Any unpaid bills owed to the Village by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees; or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Village, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional use order, that is subject to all remedies available to the Village, including possible cause for termination of the conditional use order.
16. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the Applicant's application, as noted in the Minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
17. The Applicant is obligated to file with the Village Clerk a current mailing address and current phone number at which the Applicant can be reached, which must be continually updated by the Applicant if such contact information should change, for the duration of this conditional use. If the Applicant fails to maintain such current contact information the Applicant thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.

Let copies of this order be filed in the permanent records of the Village Board for the Village of Fox Point, and let copies be sent to the proper Village of Fox Point authorities and the Applicant and Owner.

Signed this _____ day of _____, 2019, *nunc pro tunc* the _____ day of _____, 2019.

BY THE FOX POINT VILLAGE BOARD:

Douglas H. Frazer, Village President

Attest:

Kelly A. Meyer, CMC/WCMC, Village Clerk/Treasurer

APPROVAL

I hereby approve the issuance of this Conditional Use Permit to the Applicant on the terms and conditions described herein.

Dated this _____ day of _____, 2019.

SUBJECT PROPERTY OWNER

By: _____
Authorized Signatory

Title: _____

ACCEPTANCE

I hereby accept the terms and conditions of this Conditional Use in its entirety.

Dated this _____ day of _____, 2019.

APPLICANT:

By: _____
Authorized Signatory

Title: _____



VILLAGE OF FOX POINT
7200 N. Santa Monica Blvd.
Fox Point, WI 53217
(414) 351-8900

CONDITIONAL USE PERMIT

NO. 2019-08
8649 N. Port Washington Rd.
Fox Point, WI 53217

Permission is hereby granted to by the Village of Fox Point Board of Trustees to The Friendship Circle, Inc., as described at 8649 N. Port Washington Rd., Fox Point, WI, as described on attached Conditional Use Order

Applicant: The Friendship Circle, Inc. / Levi Stein

The Permitted Use Restricted. The Friendship Circle, Inc. will operate a coffee shop, bakery and art studio, and will employ adults with special needs under professional mentorship for retail sales, events and inclusion, subject to the terms of this Conditional Use Permit. The interior will be renovated at this location as described in the Applicant's application, subject to the terms of this Conditional Use Permit. The hours of operation shall be limited to 6:30 a.m. until 7:00 p.m. Sunday through Friday, unless additional hours are approved in writing by the Village Manager.

All Village, State, and Federal regulations must be complied with in full. This is not an Occupancy Permit. Owner/Applicant is responsible for obtaining all necessary permits (Building, sign, food dealers, electrical, etc.).

This conditional use permit specifically incorporates all plans, specifications, terms and representations as submitted with the application, or in support thereof, or as represented to the Village Board in the course of the approval process, which plans, specifications, terms and representations are specifically incorporated herein and made a condition hereof. The use as herein permitted is expressly conditioned upon full compliance with all such plans, specifications, terms and representations.

Date: September 10, 2019

Jeanne O'Brien, MMC/WCPC
Village Deputy Clerk/Treasurer



VILLAGE OF FOX POINT

MILWAUKEE COUNTY
WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD.
FOX POINT 53217-3505
414-351-8900
FAX 414-351-8909

To: Village of Fox Point Village Board
From: Scott Brandmeier, Director of Public Works 
Through: Scott Botcher, Village Manager 
Date: August 27, 2019
Re: Recommendation for Paving of Goodrich Lane

As part of the work being performed on the ravines along Goodrich Lane, the Village retained Munson, Inc. to pave Gray Log and Goodrich Lanes. A portion of the road was paved last year under separate contract with Munson. They have submitted a quote to perform the paving (from Lake Drive to Gray Log) after the work on the ravine is completed.

The quote to perform the work is \$23,610. I have reviewed the quote and am of the opinion the cost is very reasonable. Therefore, it is my recommendation that the Village Board accept the quote of Munson, Inc. in the amount of \$23,610 for the repaving of Goodrich Lane from Lake Drive to Gray Log Lane and authorize the Village President and Village Clerk/Treasurer to sign the contract.



MUNSON, INC.

Established 1955

MUNSON FENCE DIV.
MUNSON-ARMSTRONG PAVING DIV.
MUNSON TENNIS COURT DIV.

6747 N. Sidney Place Glendale, WI 53209

Phone: (414) 351-0800 FAX: (414) 351-0879

www.munsoninc.com



PROPOSAL SUBMITTED TO:

SCOTT BRANDMEIR
VILLAGE OF FOX POINT
7200 N SANTA MONICA BLVD.
FOX POINT, WI 53217

(414) 247-6624
sbrandmeier@vil.fox-point.wi.us

DATE:

August 26, 2019

JOB NAME & LOCATION

Goodrich Ln Bridge Project
Asphalt Milling & Paving
West Bridge Portion

Furnishing all necessary labor, equipment and material for the asphalt milling and paving of the above job at the WEST bridge. Area involved is approximately 7,075 SF. Work to include:

1. Mill 4" of asphalt/stone off existing roadways.
2. Pave with 4" asphaltic concrete (2.5" of Commercial Grade (19.0mm) asphaltic concrete binder course – 108 tons) and 1.5" of Commercial Grade (9.5mm) asphaltic concrete surface course – 65 tons). (After compaction depth).

LABOR AND MATERIAL . . . \$23,610.00

NOTES

1. Lifts to be paved on the same day. Additional mobilizations, cleaning and tacking would be extra.
2. All Munson employees have a minimum of OSHA10 training with a majority having OSHA30.
3. Does not include traffic control signage or gravel shouldering.
4. Price assumes a minimum 6" of existing stone base below the asphalt for reuse BEFORE pulverizing the estimated 3" of existing asphalt. Should new base be needed a price will be quoted at that time; however, a budget of \$2.50 per SF can be used for 8" removal and replacement with stone base. For additional depth undercutting poor subgrade and installing crushed limestone base, use \$90.00 per Cubic Yard – roughly \$1,980 per full quad axle truck.

**AUTHORIZED
SIGNATURE:**

Rob Fetherston – Vice President

ACCEPTANCE OF PROPOSAL: The above prices, specifications and attached Terms and Conditions are satisfactory and hereby accepted. You are authorized to do the work as specified.

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

SIGNATURE: _____

Date of Acceptance: _____ **SIGNATURE:** _____

-SEE LAST PAGE FOR TERMS AND CONDITIONS-

A. MUNSON, INC. TERMS & CONDITIONS

1. Upon acceptance of this contract, if a cancellation notice is not received in writing within three days of acceptance, Munson, Inc. assumes that the owner or owner's agent accepts the work herein described and the terms and conditions of sale herein contained. Any withdrawal of this contract could result in partial billing to reimburse Munson, Inc. for planning, preparation, and materials already ordered or installed on the job site.
2. This contractor is not responsible for damage to or injuries caused by any privately (not installed by a Public Utility) placed underground wires, pipes, sewers, conduits, obstructions or restrictions. The owner or his agent agrees to indemnify and hold harmless Munson Fence Div./Munson-Armstrong Paving Div., Munson Inc. from any and all claims, liabilities, costs and expenses whatsoever arising from above.
3. Property owner is responsible for any necessary permits or variances, unless specifically noted in the contract.
4. **The contract does not contemplate the encountering of underlying rock, concrete, wood or other unsuitable materials or unusual conditions during excavation. Should these conditions be encountered the owner shall be charged for the extra work incurred.**
5. The contract does not contemplate "frost-digging" conditions, unless specifically stated in this contract. Should owner require installation during such conditions, an additional charge will be made based on the actual time and equipment required to complete the installation.
6. Any alteration or deviation from stated specifications involving extra costs will become an extra charge over and above original contract. Any such alteration or deviation from stated specifications will be performed only upon submission of a written change order, and Owner/Contractor will be required to pay to Munson, Inc. an extra charge over and above the original contract price for performance of the requested change order.
7. If, after notification, Munson, Inc. is unable to complete its work due to unmoved vehicles or obstructions, Munson, Inc. may bill for additional trip charges or vehicle towing charges.
8. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.
9. All material is guaranteed to be as specified. All work is to be completed in a workmanlike manner according to standard practices.
10. All labor and material is conclusively accepted as satisfactory unless this contractor is notified in writing within 72 hours after the work is performed.
11. Any claim for property damage is conclusively waived unless this contractor is notified in writing within 72 hours of the occurrence.
12. Munson, Inc. is not responsible for damage to existing concrete or asphalt due to normal construction equipment traffic.
13. Site restoration from excavation, such as backfilling edges or post footings, is **not** included unless specifically noted in the contract.
14. Prior to the commencement of the work of Munson, Inc., the work of others shall be completed to such an extent that it will not in any way conflict or interfere with the work of Munson, Inc. If Munson, Inc. is directed to commence its work prior to the time such other work is completed, Owner/Contractor agrees to pay the costs of any extra mobilizations or reduced productivity attributable to Munson, Inc. commencing any of its work before any others have completed their work.
15. All agreements are contingent upon strikes, accidents or delays beyond our control with examples such as labor disputes, fire, unusual delay in transportation of materials, equipment or personnel, adverse weather conditions, unavoidable casualties or any cause beyond the control of Munson. If so then any agreed contract completion time should be extended for such reasonable time the parties may determine.
16. Unless stated in the contract, terms of payment are net 15 days. Any past due balances shall be subject to the current legal interest charge per month.
17. Owner shall reimburse Munson Inc. for any expense incurred by Munson Inc. in protecting or enforcing its rights under this agreement including, without limitation, reasonable attorney's fees and legal expenses (and, if appropriate, all expenses of taking possession, holding, preparing for disposition and disposing of any collateral). This includes any expenses incurred before and after the commencement of any litigation to protect or enforce its rights under this agreement, including all appeals.
18. This contract will be construed and enforced in accordance with the laws of the State of Wisconsin.

B. ADDITIONAL TERMS AND CONDITIONS FOR MUNSON FENCE DIV.

1. All property lines and grades are to be established by the owner. Fence is to follow ground lines unless otherwise provided for in this contract.
2. Obstructions of every nature, which in any manner interfere with the erection of fence shall be removed by the owner prior to commencement of work, unless otherwise provided for in this contract.
3. On all jobs where Munson Fence Div. installs or supplies "Razor Ribbon", owner or agents of the property will hold Munson Fence Div./Munson, Inc. harmless in any way from claims, liabilities or injuries.
4. Gate Operator Systems: End user to understand the operations and safety systems of the unit.

C. ADDITIONAL TERMS AND CONDITIONS FOR MUNSON-ARMSTRONG PAVING DIV.

1. **MUNSON-ARMSTRONG PAVING DIV. DOES NOT WARRANT AGAINST CRACKS SINCE THEY WILL APPEAR IN ALL PAVEMENTS.**
2. A 1-1/2% slope or greater is necessary for surface drainage of asphalt paving; 1% for concrete paving. If the owner directs construction of the subgrade, base or paved surface that results in a lesser slope, this contractor does not warrant satisfactory surface drainage.
3. Salt or melting compounds should not be applied to concrete paving for 12 months after installation. Any pitting or peeling resulting from such application will not be warranted by this contractor.
4. Due to the fact that ready mixed concrete is composed of all natural materials, Munson Inc cannot warrant against premature discoloration or color variation from load to load.
5. Material will not be placed on a wet, unstable, or frozen subgrade. A suitable subgrade shall be furnished by the contractor as a condition precedent to the performance of this contract.
6. The catch basin price is based upon the existing sewer lateral at the property line being in serviceable condition. Should it be necessary to connect to the street sewer line, owner shall be charged for the extra work incurred.
7. Sealer adhesion cannot be guaranteed on pavement with pre-existing sealcoat flaking, pavement located under tree canopies, over petroleum spillage, has alligator/spider cracking or low areas that puddle.

LIEN NOTICE

"AS REQUIRED BY THE WISCONSIN CONSTRUCTION LIEN LAW, BUILDER (CONTRACTOR) HEREBY NOTIFIES OWNER THAT PERSONS OR COMPANIES FURNISHING LABOR OR MATERIALS FOR THE CONSTRUCTION ON OWNER'S LAND MAY HAVE LIEN RIGHTS ON THE OWNER'S LAND AND BUILDINGS IF NOT PAID. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO THE UNDERSIGNED BUILDER ARE THOSE WHO CONTRACT DIRECTLY WITH THE OWNER OR THOSE WHO GIVE THE OWNER NOTICE WITHIN 60 DAYS AFTER THEY FIRST FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION. ACCORDINGLY, OWNER PROBABLY WILL RECEIVE NOTICES FROM THOSE WHO FURNISH LABOR AND MATERIALS FOR THE CONSTRUCTION, AND SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO HIS MORTGAGE LENDER, IF ANY. BUILDER AGREES TO COOPERATE WITH THE OWNER AND HIS LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID."



VILLAGE OF FOX POINT

MILWAUKEE COUNTY
WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD.
FOX POINT 53217-3505
414-351-8900
FAX 414-351-8909

TO: Village Board

FROM: Michael Pedersen, Assistant Village Manager 

THROUGH: Scott Botcher, Village Manager 

DATE: September 3, 2019

RE: **Use of Village Streets – Badgerland Striders Lakefront Marathon**

Background and Overview

Badgerland Striders has requested a permit to use Village streets for the Milwaukee Lakefront Marathon on Sunday, October 6, 2019 as requested in the attached letter from Scott Stauske.

Analysis

Badgerland Striders has paid both the \$150 permit fee and the \$3,606.93 estimated by the Police Department to cover the cost of additional staffing.

Badgerland Striders has provided an appropriate Certificate of Liability Insurance.

Recommendation

Staff recommends the Village Board approve the permit to use Village streets for the Milwaukee Lakefront Marathon on Sunday, October 6, 2019.



August 30, 2019

Mr. Michael Pederson, Village of Fox Point
Sgt. Benjamin Brouwer, Fox Point Police Dept
7200 N Santa Monica Blvd.
Fox Point, WI 53217

Dear Mr. Pederson and Sgt. Brouwer:

My name is Scott Stauske and I am the Race Director for the Milwaukee Lakefront Marathon. This will be our 39th year of providing the largest marathon event in the state of Wisconsin and will have approx. 2800 runners and thousands of additional spectators and volunteers this year. Our success would not be possible without the continued support of the residents of Fox Point and the cooperation of the Village's municipal departments. I respectfully ask for your coordination efforts and assistance in making our October 6, 2019 event a success.

As in years past, we are seeking your permission to use one lane of traffic from the Bayside border on the north to Whitefish Bay on the south. Volunteer course sentries will be provided by the race to assist officer patrols at intersections they deem important to monitor. It is our understanding that for safety reasons to runners as well as drivers, Fox Point will again request to have traffic closed to vehicle traffic on Lake Drive from School Road to N. Bell Road. It is my understanding that this letter may serve as official communication of our request for permission and should a meeting between your staff and I be requested, I will certainly appear to make certain we work together. Attached to this letter is a certificate of insurance naming the Village as insured and even though our course has not and will not change, I am including a link for our course map.

<https://www.milwaukeekeelakefrontmarathon.org/race-weekend/course-information/>

If any further information is required, you may reach me at any of the methods below. I welcome this opportunity and thank you and the residents again.

Very sincerely,

Scott Stauske

Scott Stauske
Race Director - Milwaukee Lakefront Marathon

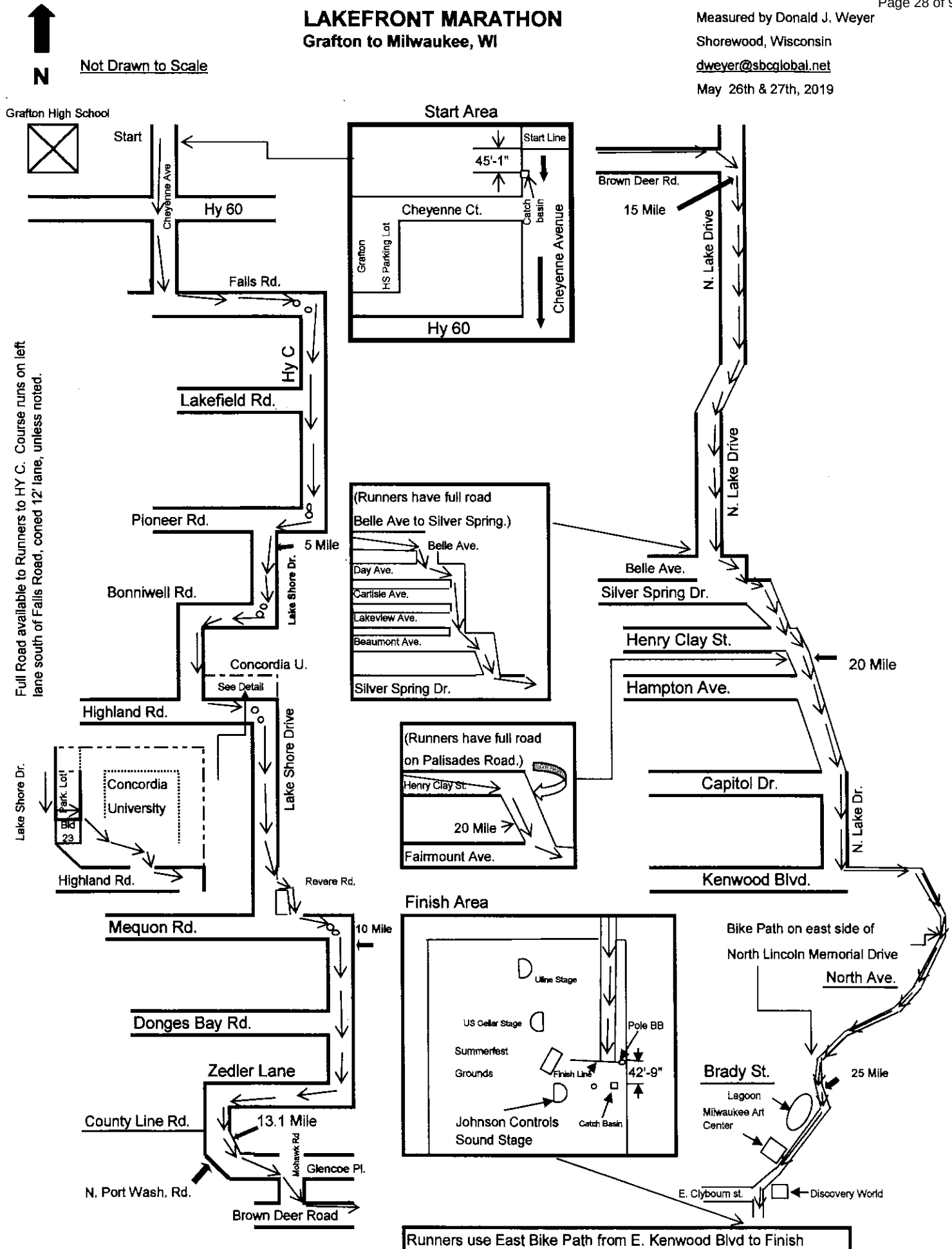
Milwaukee Lakefront Marathon

12650 W. Arden Place, Butler, WI 53007, 414-418-8395

milwaukeekeelakefrontmarathon@gmail.com www.MilwaukeeLakefrontMarathon.org

LAKEFRONT MARATHON Grafton to Milwaukee, WI

Measured by Donald J. Weyer
Shorewood, Wisconsin
dweyer@sbcglobal.net
May 26th & 27th, 2019





VILLAGE OF FOX POINT

MILWAUKEE COUNTY
WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD.
FOX POINT 53217-3505
414-351-8900
FAX 414-351-8909

September 3, 2019

Scott Stauske
Lakefront Marathon
12650 W. Arden Place
Butler, WI 53007

DUPLICATE COPY

Dear Mr. Stauske:

The Village of Fox Point Ordinance requires a permit for any event using Village streets. The permit fee is \$150. The ordinance also requires a payment to cover actual costs to the Village for the event. We estimate this event will require the services of the following departments at the estimated costs:

Department	ESTIMATED HOURS	COST/HOUR	TOTAL COST
Auxiliary Officer			
Sergeant			
Patrol Officer	40.5	\$89.06	\$3,606.93
Use of Street Permit			\$150.00
Total Cost			\$3,756.93

Please send a check in the amount of \$3,756.93 to cover the permit fee and the estimated costs. At this time, the Village of Fox Point does not have available auxiliary officers as in previous years, requiring us to use additional off duty police officers at the overtime wage rate.

The Village also requires that the applicant for such an event provide notice to all of the residents and businesses that will be impacted by the event. Notification must be sent no later than ten days prior to the event. The Village will make available a list of addresses to which notification should be provided. Please note that a new list must be obtained from the Village each year, as it may change from prior years. This list can be supplied in the following formats: paper copies, labels, or Excel spreadsheet. There may be additional costs depending on the format chosen. Please contact Village Clerk, Kelly Meyer, to coordinate this process.

The ordinance also requires that an insurance rider acceptable in form to the Village Attorney be provided and the Village be named as an additional insured on the application waiver. This has already been sent in, so no need to send in a duplicate copy.

Approval by the Village Board will be placed on the next agenda following receipt of the above mentioned items. The Village Board meets on the second Tuesday of the month. All materials must be received by 12:00 noon on the Monday the week prior to the Tuesday meeting. Should you have any question, please do not hesitate to contact me at mpedersen@villageoffoxpoint.com or (414) 351-8900.

Respectfully,



Michael Pedersen
Assistant Village Manager



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/21/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Management Group 959 E. 4th St. P.O. Box 1600 Marion IN 46952		CONTACT NAME: Margaret Mayers PHONE (A/C, No, Ext): (260) 338-2925 FAX (A/C, No): E-MAIL ADDRESS: mmayers@insmgt.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: National Casualty Company	11991
INSURED Road Runners Club of America/2019 and Its Member Clubs 1501 Lee Highway, Suite 140 Arlington VA 22209		INSURER B: Nationwide Life Insurance Co.	66869
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 2019 \$2M A.I.

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADOL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY			KRO0000007654600	12/31/2018	12/31/2019	EACH OCCURRENCE \$ 2,000,000
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	☒ Legal liability to						MED EXP (Any one person) \$ 5,000
	☐ Participant \$2,000,000						PERSONAL & ADV INJURY \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ Unlimited
	☒ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
	OTHER:						Abuse and Molestation \$ 500,000
A	AUTOMOBILE LIABILITY			KRO0000007654600	12/31/2018	12/31/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	☐ ANY AUTO						BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS ☒ NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED ☐ RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE ☐ OTH-ER ☐
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
B	Excess Medical & Accident (\$250 deduction)			SPX0000030282400	12/31/2018	12/31/2019	Excess Medical \$10,000
							AD & Specific Loss \$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED. DATE OF EVENT(S): 10/06/19 Milwaukee Lakefront Marathon 26.2 mile road race INSURED RRCA CLUB/EVENT MEMBER: Badgerland Striders, Inc., Att'n: Scott Stauske, 12650 W Arden Place, Butler, WI 53007

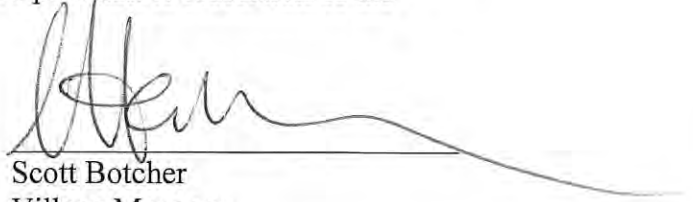
CERTIFICATE HOLDER

CANCELLATION

10/06/19 Village of Fox Point 7200 N Santa Monica Blvd Fox Point, WI 53217	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Terry Diller/MARG
	<i>Terry R. Diller</i>

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This is to certify that the attached is true and correct list of bills due for a period from August 1- 31, 2019, in the total amount of \$1,043,340.73. Each bill has been approved in writing by the official department head or employee authorized to incur the obligations and which bills have been audited by the undersigned pursuant to resolution of the Village Board.



Scott Botcher
Village Manager
Village of Fox Point

This is to certify that the above listed accounts and demands have been presented and allowed and ordered paid by the Village Board at a meeting thereof held on September 10, 2019.

Douglas H. Frazer
Village President

Kelly A. Meyer
Village Clerk/Treasurer
Village of Fox Point

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Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
10-13100 ACCOUNTS RECEIVABLE - SUNDRY						
919	DAVID J. FRANK LANDSCAPE C	7103	7624 N SENECA	08/22/2019	300.00	08/23/2019
919	DAVID J. FRANK LANDSCAPE C	7104	432 E FOX DALE CT	08/22/2019	375.00	08/23/2019
Total 10-13100 ACCOUNTS RECEIVABLE - SUNDRY:					675.00	
10-21520 GROUP LIFE						
18	SECURIAN FINANCIAL GROUP I	SEPTEMBER 2019	LIFE INSURANCE	08/15/2019	1,001.97	08/16/2019
Total 10-21520 GROUP LIFE:					1,001.97	
10-21525 UNION DUES						
185	FOX POINT POLICE PROT. ASS	AUGUST 2019	POLICE DUES	08/22/2019	450.00	08/23/2019
185	FOX POINT POLICE PROT. ASS	JULY 2019	POLICE DUES	08/22/2019	450.00	08/23/2019
Total 10-21525 UNION DUES:					900.00	
10-21530 DEFERRED COMPENSATION						
375	NORTH SHORE BANK, FSB	PR0808192	Deferred Comp NICHOLAS Pay	08/08/2019	50.00	08/09/2019
375	NORTH SHORE BANK, FSB	PR0808192	Deferred Comp NORTH SHORE	08/08/2019	685.00	08/09/2019
375	NORTH SHORE BANK, FSB	PR0822192	Deferred Comp NICHOLAS Pay	08/22/2019	50.00	08/23/2019
375	NORTH SHORE BANK, FSB	PR0822192	Deferred Comp NORTH SHORE	08/22/2019	685.00	08/23/2019
1622	WELLS FARGO BANK, N.A.	PR0808191	Deferred Comp WI DEFER - PRE	08/08/2019	6,508.40	08/09/2019
1622	WELLS FARGO BANK, N.A.	PR0808191	Deferred Comp WI DEFER - RO	08/08/2019	1,139.62	08/09/2019
1622	WELLS FARGO BANK, N.A.	PR0822191	Deferred Comp WI DEFER - PRE	08/22/2019	6,508.40	08/23/2019
1622	WELLS FARGO BANK, N.A.	PR0822191	Deferred Comp WI DEFER - RO	08/22/2019	1,139.62	08/23/2019
101991	VANTAGEPOINT TRANSFER AG	PR0808191	Deferred Comp ICMA-PRETAX	08/08/2019	962.30	08/09/2019
101991	VANTAGEPOINT TRANSFER AG	PR0822191	Deferred Comp ICMA-PRETAX	08/22/2019	962.30	08/23/2019
Total 10-21530 DEFERRED COMPENSATION:					18,690.64	
10-45100 FINES/FORFEITURES						
1317	MENOMONEE FALLS MUNICIPA	JAMISON/FRATEA	JAMISON/FRATEAREYA 08/15/2	08/15/2019	565.00	08/16/2019
101813	BROWN DEER POLICE DEPART	TURNER/BRITTAN	TURNER/BRITTANY 9/10/1990	08/15/2019	348.00	08/16/2019
Total 10-45100 FINES/FORFEITURES:					913.00	
10-46320 JOB ORDERS						
920	BEER, JAMES	1.054554	JOB ORDER CANCELLED	08/22/2019	75.00	08/23/2019
Total 10-46320 JOB ORDERS:					75.00	
10-46710 PAVILION RENTALS						
999	DANIEL, HEDY	8.002099	DEPOSIT REFUND	08/14/2019	50.00	08/16/2019
1139	LORICCO, MARIA	8.002184	DEPOSIT REFUND	08/14/2019	50.00	08/16/2019
Total 10-46710 PAVILION RENTALS:					100.00	
10-51100-310 SUPPLIES/EXPENSES						
1766	CONFLUENCE GRAPHICS	71033	DOOR HANGERS	08/22/2019	660.70	08/23/2019
1766	CONFLUENCE GRAPHICS	71059	BUSINESS CARDS	08/22/2019	45.00	08/23/2019
Total 10-51100-310 SUPPLIES/EXPENSES:					705.70	
10-51200-395 COUNTY COURT FEES						
330	MILWAUKEE COUNTY TREASU	JULY 2019	JULYDRIVER/JAIL	08/14/2019	1,017.40	08/16/2019
552	WISCONSIN, STATE OF - COUR	JULY 2019	JULY	08/14/2019	1,861.26	08/16/2019

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Total 10-51200-395 COUNTY COURT FEES:					2,878.66	
10-51300-218 VILLAGE ATTORNEY						
535	MUNICIPAL LAW & LITIGATION	3253	VILLAGE ATTORNEY	08/07/2019	2,598.70	08/09/2019
Total 10-51300-218 VILLAGE ATTORNEY:					2,598.70	
10-51300-219 VILLAGE PROSECUTOR						
1924	STIPPICH SELIN & CAIN LLC	1397	PROSECUTOR	08/01/2019	704.00	08/02/2019
Total 10-51300-219 VILLAGE PROSECUTOR:					704.00	
10-51420-310 SUPPLIES/EXPENSES						
5033	OFFICE DEPOT -US COMMUNIT	348323372001	37360205CLERK	08/14/2019	23.99	08/16/2019
Total 10-51420-310 SUPPLIES/EXPENSES:					23.99	
10-51440-233 EQUIPMENT MAINTENANCE						
774	ELECTION SYSTEMS & SOFTW	1095228	MAINTENANCE FEE	08/07/2019	680.00	08/16/2019
Total 10-51440-233 EQUIPMENT MAINTENANCE:					680.00	
10-51520-322 TRAINING						
102273	CIVIC SYSTEMS, LLC	2019 SEMINAR	CONFERENCE	08/15/2019	225.00	08/16/2019
Total 10-51520-322 TRAINING:					225.00	
10-51530-210 CONTRACT SERVICES						
2706	ASSOCIATED APPRAISAL CON	143576	MONTHLY FEES	08/01/2019	2,664.96	08/16/2019
2846	DIANE MILANOWSKI, LLC	41361	BOARD OF REVIEW	08/26/2019	200.00	08/27/2019
Total 10-51530-210 CONTRACT SERVICES:					2,864.96	
10-51600-210 CONTRACT SERVICES						
2689	SPRUCE UP CLEANING	3562	MONTHLY	08/01/2019	1,583.37	08/02/2019
5786	GREAT AMERICAN LEASING CO	25215091	MONTHLY	08/05/2019	231.00	08/05/2019
Total 10-51600-210 CONTRACT SERVICES:					1,814.37	
10-51600-220 GAS-HEAT						
536	WE-ENERGIES	07/22-08/20/2019	3298-754-812	08/27/2019	10.11	08/27/2019
Total 10-51600-220 GAS-HEAT:					10.11	
10-51600-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	07/22-08/20/2019	3298-754-812	08/27/2019	1,239.63	08/27/2019
Total 10-51600-221 ELECTRIC UTILITIES:					1,239.63	
10-51600-222 TELEPHONE UTILITIES						
1336	EARTHLINK BUSINESS	08/01/2019	7345438	08/07/2019	168.74	08/09/2019
2691	CENTURYLINK-BUSINESS SVC.	1473629957	87619173	08/08/2019	.64	08/09/2019
5312	AT & T- VILLAGE	07/22/2019	414 351-8900 758 7	08/01/2019	38.30	08/02/2019
Total 10-51600-222 TELEPHONE UTILITIES:					207.68	

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10-51600-234 VILLAGE HALL MAINTENANCE						
360	NASSCO INC.	S2507908	CLEANER	08/23/2019	262.91	08/27/2019
502	VILLAGE HARDWARE - VH	1877201	BULB	08/01/2019	16.18	08/02/2019
892	SPECTRUM	08/08/2019	10404-060459401-5001	08/14/2019	6.63	08/16/2019
1710	UP NORTH SERVICES	2933	PEST CONTROL VLG	08/12/2019	45.00	08/16/2019
1751	ACTION HEATING COOLING & P	113483	ACTUATOR	08/12/2019	663.90	08/16/2019
1751	ACTION HEATING COOLING & P	113602	CHILLER	08/23/2019	362.21	08/27/2019
1751	ACTION HEATING COOLING & P	113628	CHILLER	08/23/2019	1,056.84	08/27/2019
2241	ITU ABSORB TECH, INC	7278249	VILLAGE	08/01/2019	26.94	08/02/2019
2241	ITU ABSORB TECH, INC	7282671	VILLAGE	08/01/2019	30.04	08/02/2019
2241	ITU ABSORB TECH, INC	7287223	VILLAGE	08/01/2019	26.94	08/02/2019
2241	ITU ABSORB TECH, INC	7291560	VILLAGE	08/12/2019	211.05	08/16/2019
5689	BEST PAINTING & RESTORATIO	VH Stairway	STAIRWELL/LIGHTING	08/23/2019	510.00	08/27/2019
Total 10-51600-234 VILLAGE HALL MAINTENANCE:					3,218.64	
10-51600-396 VILLAGE OPEN HOUSE						
1158	EGGERS IMPRINTS	76607	SHIRTS	08/01/2019	54.00	08/02/2019
Total 10-51600-396 VILLAGE OPEN HOUSE:					54.00	
10-51700-510 INSURANCE						
1658	R & R INSURANCE SERVICES, I	2085056	COMMERCIAL	08/07/2019	55.00	08/09/2019
Total 10-51700-510 INSURANCE:					55.00	
10-51700-511 GROUP HEALTH - RETIREES						
435	RIES, DANIEL	12	HEALTH	08/01/2019	826.70	08/02/2019
638	KRIEFALL, DONALD A	40	HEALTH INSURANCE REIMBUR	08/01/2019	429.74	08/02/2019
922	BAUER, SHAUN M	2019RETIREMENT	SICKTIMEPAYOUT	08/22/2019	7,592.87	08/23/2019
1801	MILLER, DAN N	17	MONTHLY REIMBURSEMENT	08/01/2019	308.68	08/02/2019
Total 10-51700-511 GROUP HEALTH - RETIREES:					9,157.99	
10-52100-210 POLICE MAINTENANCE CONTRACTS						
477	TAYLOR COMPUTER SERVICES	19413	PDAUGUSTMANAGED	08/22/2019	126.00	08/23/2019
5152	JAMES IMAGING SYSTEMS, IN	924889	POLICE DEPARTMENT	08/15/2019	86.52	08/16/2019
Total 10-52100-210 POLICE MAINTENANCE CONTRACTS:					212.52	
10-52100-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	7/22-8/20/19	9299-448-560	08/26/2019	21.89	08/27/2019
536	WE-ENERGIES	7/22-8/20/19	0699-070-169	08/26/2019	2,273.42	08/27/2019
Total 10-52100-221 ELECTRIC UTILITIES:					2,295.31	
10-52100-222 TELEPHONE UTILITIES						
892	SPECTRUM	20190801OTA	10404038090401-6001	08/15/2019	13.25	08/16/2019
1336	EARTHLINK BUSINESS	08/01/2019	7345438	08/07/2019	105.46	08/09/2019
2136	VERIZON WIRELESS	9835438340	785223225-00001	08/15/2019	209.48	08/16/2019
2691	CENTURYLINK-BUSINESS SVC.	1473629957	87619173	08/08/2019	.65	08/09/2019
2973	TIME WARNER CABLE	70433001080119	070433001	08/09/2019	442.99	08/16/2019
5312	AT & T-VILLAGE	07/22/2019	414 351-8900 758 7	08/01/2019	23.94	08/02/2019
Total 10-52100-222 TELEPHONE UTILITIES:					795.77	
10-52100-232 VEHICLE MAINTENANCE						
503	VILLAGE HARDWARE - DPS	189098	WINDSHIELD WASH	08/22/2019	10.76	08/23/2019

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102081	GOODYEAR AUTO SERVICE CE	327708	OIL	08/01/2019	24.11	08/02/2019
Total 10-52100-232 VEHICLE MAINTENANCE:					34.87	
10-52100-233 EQUIPMENT MAINTENANCE						
5839	LEXISNEXIS	1346411-20190731	MONTHLY	08/09/2019	32.00	08/16/2019
Total 10-52100-233 EQUIPMENT MAINTENANCE:					32.00	
10-52100-234 BUILDING MAINTENANCE						
503	VILLAGE HARDWARE - DPS	188843	MISC	08/15/2019	8.63	08/16/2019
2741	LAUBENSTEIN INC	13397	REPAIR	08/22/2019	382.00	08/23/2019
Total 10-52100-234 BUILDING MAINTENANCE:					390.63	
10-52100-330 CLOTHING ALLOWANCE						
473	STREICHER'S	1380602	GROSSMUELLER	08/09/2019	833.00	08/16/2019
473	STREICHER'S	1380849	HUBER	08/09/2019	205.96	08/16/2019
473	STREICHER'S	1381922	KRANDA	08/09/2019	825.00	08/16/2019
473	STREICHER'S	1381924	OBREMSKI	08/09/2019	161.97	08/16/2019
473	STREICHER'S	1383029	PAUL	08/22/2019	30.99	08/23/2019
1294	Galls, LLC,-	13244361	NIEUWENHUIS	08/09/2019	187.98	08/16/2019
1294	Galls, LLC,-	13369667	FREEDY	08/22/2019	64.99	08/23/2019
5325	WILL ENTERPRISES	282971	SHIRTS	08/01/2019	442.74	08/02/2019
Total 10-52100-330 CLOTHING ALLOWANCE:					2,752.63	
10-52100-334 JANITORIAL SUPPLIES						
393	PACKERLAND RENT-A-MAT INC.	2580507	POLICE 10586-10586	08/09/2019	117.52	08/16/2019
393	PACKERLAND RENT-A-MAT INC.	2585521	10586-10586-POLICE DEPT	08/22/2019	110.28	08/23/2019
Total 10-52100-334 JANITORIAL SUPPLIES:					227.80	
10-52100-335 SCHOOL EXPENSES						
1072	WISCONSIN SUPREME COURT	2019 CONFERENC	REGISTRATION FEE	08/01/2019	40.00	08/02/2019
Total 10-52100-335 SCHOOL EXPENSES:					40.00	
10-52200-377 2% FIRE DUES(NSFD)						
54	NORTH SHORE FIRE DEPARTM	2019 FIRE DUES	FIRE DUES	08/15/2019	33,929.75	08/16/2019
Total 10-52200-377 2% FIRE DUES(NSFD):					33,929.75	
10-52520-400 MATERIALS						
102241	CROWLEY CONSTRUCTION CO	11120	STRIPPING	08/01/2019	10,205.00	08/02/2019
Total 10-52520-400 MATERIALS:					10,205.00	
10-53300-221 STREET LIGHTS - ELECTRIC						
536	WE-ENERGIES	07/07-08/05/19	7083-911-529	08/09/2019	17.99	08/16/2019
536	WE-ENERGIES	6/28-7/29/19	3449-647-735	08/02/2019	216.15	08/02/2019
Total 10-53300-221 STREET LIGHTS - ELECTRIC:					234.14	
10-53300-405 STREET MATERIALS						
408	RHOMAR INDUSTRIES, INC	94940	RHOMA-SOL	08/12/2019	509.96	08/16/2019
458	SHERWIN INDUSTRIES, INC.	SC043234	TACK	08/12/2019	975.60	08/16/2019
458	SHERWIN INDUSTRIES, INC.	SS080501	ROADSAVER	08/05/2019	4,758.50	08/09/2019

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5293	LANNON STONE PRODUCTS	88922	STONE	08/01/2019	698.12	08/02/2019
Total 10-53300-405 STREET MATERIALS:					6,942.18	
10-53300-495 MISCELLANEOUS SUPPLIES & TOOLS						
5033	OFFICE DEPOT -US COMMUNIT	348323372001	37360205 DPW	08/14/2019	36.92	08/16/2019
Total 10-53300-495 MISCELLANEOUS SUPPLIES & TOOLS:					36.92	
10-53400-221 BUS STOP-ELECTRIC						
536	WE-ENERGIES	07/07-08/05/19	6865-091-092	08/09/2019	15.71	08/16/2019
536	WE-ENERGIES	07/07-08/05/19	7018-222-713	08/09/2019	15.71	08/16/2019
536	WE-ENERGIES	07/07-08/05/19	9024-478-778	08/09/2019	15.71	08/16/2019
536	WE-ENERGIES	07/07-08/05/19	3217-867-834	08/09/2019	15.84	08/16/2019
Total 10-53400-221 BUS STOP-ELECTRIC:					62.97	
10-53630-370 LANDFILL FEES						
1298	WASTE MANAGEMENT OF WI-M	0000382-1996-0	MSW	08/07/2019	9,151.61	08/09/2019
Total 10-53630-370 LANDFILL FEES:					9,151.61	
10-53641-400 MATERIALS						
3234	WALDSCHMIDT'S TOWN & COU	682458	TRIMMER LINE	08/23/2019	124.76	08/27/2019
Total 10-53641-400 MATERIALS:					124.76	
10-53642-400 MATERIALS						
368	MID-STATE EQUIPMENT	H11113	RENTAL	08/12/2019	140.00	08/16/2019
1298	WASTE MANAGEMENT OF WI-M	0056858-2286-7	YARD WASTE	08/07/2019	1,002.68	08/09/2019
1298	WASTE MANAGEMENT OF WI-M	0056967-2286-6	YARDWASTE	08/22/2019	1,101.55	08/23/2019
Total 10-53642-400 MATERIALS:					2,244.23	
10-53700-300 MISCELLANEOUS EXPENSE						
43	AUTO PARTS & SERVICE	795300	MISC	08/01/2019	13.99	08/02/2019
43	AUTO PARTS & SERVICE	797044	MISC	08/12/2019	15.89	08/16/2019
43	AUTO PARTS & SERVICE	798177	ANTI-SEIZE	08/23/2019	25.05	08/27/2019
43	AUTO PARTS & SERVICE	798300	DIPLOMAT	08/23/2019	89.95	08/27/2019
1074	MATHESON TRI-GAS, INC	51498485	ARGON	08/12/2019	24.80	08/16/2019
2241	ITU ABSORB TECH, INC	7278247	SHOP	08/01/2019	11.51	08/02/2019
2241	ITU ABSORB TECH, INC	7282669	SHOP	08/01/2019	11.51	08/02/2019
2241	ITU ABSORB TECH, INC	7287221	SHOP	08/01/2019	11.51	08/02/2019
2241	ITU ABSORB TECH, INC	7291558	SHOP	08/12/2019	11.51	08/16/2019
2241	ITU ABSORB TECH, INC	7295872	SHOP	08/12/2019	11.51	08/16/2019
2241	ITU ABSORB TECH, INC	7300298	SHOP	08/23/2019	11.51	08/27/2019
2241	ITU ABSORB TECH, INC	7304820	SHOP	08/23/2019	11.51	08/27/2019
3292	OSI ENVIROMENTAL INC.	7013482	SOLVENT	08/23/2019	86.00	08/27/2019
4554	TERMINAL SUPPLY CO.	49874	SEAL	08/01/2019	34.28	08/02/2019
4554	TERMINAL SUPPLY CO.	54475	MISC HARDWARE	08/12/2019	46.69	08/16/2019
4554	TERMINAL SUPPLY CO.	55710	CONNECTOR	08/12/2019	23.28	08/16/2019
Total 10-53700-300 MISCELLANEOUS EXPENSE:					440.50	
10-53700-341 REPAIR PARTS						
43	AUTO PARTS & SERVICE	794592CR	CREDIT	08/12/2019	19.00-	08/16/2019
43	AUTO PARTS & SERVICE	795851	MISC	08/01/2019	16.70	08/02/2019
43	AUTO PARTS & SERVICE	796879CR*	CREDIT BATTERY	08/14/2019	50.00-	08/16/2019

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198	NAPA AUTO PARTS	5250637311	PARTS	08/01/2019	23.16	08/02/2019
281	LINCOLN CONTRACTORS SUP	M33611	VALVE	08/01/2019	136.00	08/02/2019
547	ROLAND MACHINERY	40078236	LUBE SPIN	08/12/2019	128.26	08/16/2019
547	ROLAND MACHINERY	40078770	LUBE SPIN	08/23/2019	99.95	08/27/2019
591	CUMMINS INC.	F6-28610	PARTS	08/01/2019	84.70	08/02/2019
591	CUMMINS INC.	F6-35244	REPAIR	08/01/2019	2,393.55	08/02/2019
597	BROOKS TRACTOR INC.	M39746	MISC	08/01/2019	116.68	08/02/2019
1132	BURRIS EQUIPMENT CO.	PI00641	BOLT	08/23/2019	14.77	08/27/2019
1132	BURRIS EQUIPMENT CO.	PI99501	MISC	08/01/2019	313.81	08/02/2019
1132	BURRIS EQUIPMENT CO.	PI99617	PUMP	08/23/2019	502.69	08/27/2019
1132	BURRIS EQUIPMENT CO.	PI99617A	RING	08/23/2019	25.69	08/27/2019
1132	BURRIS EQUIPMENT CO.	PI99818	MISC	08/01/2019	135.83	08/02/2019
1132	BURRIS EQUIPMENT CO.	PS24391	CYLINDER	08/23/2019	276.14	08/27/2019
1178	R.N.O.W., INC	201956081	BACKUP ALARM	08/01/2019	116.73	08/02/2019
1178	R.N.O.W., INC	201956245	HOSE	08/23/2019	165.50	08/27/2019
4112	ROAD EQUIPMENT PARTS CEN	904654	AIR DRYER/CORE	08/23/2019	565.63	08/27/2019
4112	ROAD EQUIPMENT PARTS CEN	904736CR	CREDIT-CORE	08/23/2019	270.67	08/27/2019
4554	TERMINAL SUPPLY CO.	51306	MISC SHOP	08/01/2019	125.66	08/02/2019
102169	TRUCK COUNTRY OF WISCON	X20367588501	BELT	08/12/2019	49.47	08/16/2019
Total 10-53700-341 REPAIR PARTS:					4,951.25	
10-53700-343 FUEL						
43	AUTO PARTS & SERVICE	795300	DEF	08/01/2019	62.94	08/02/2019
43	AUTO PARTS & SERVICE	797044	DEF	08/12/2019	62.94	08/16/2019
1337	HERBST OIL, INC	71818	FUEL	08/01/2019	1,867.08	08/02/2019
1337	HERBST OIL, INC	71819	FUEL	08/01/2019	1,514.94	08/02/2019
1337	HERBST OIL, INC	72000	FUEL	08/01/2019	1,368.17	08/02/2019
1337	HERBST OIL, INC	72136	FUEL	08/01/2019	1,396.39	08/02/2019
1337	HERBST OIL, INC	72271	FUEL	08/12/2019	1,068.11	08/16/2019
1337	HERBST OIL, INC	72350	FUEL	08/12/2019	1,056.72	08/16/2019
Total 10-53700-343 FUEL:					8,397.29	
10-53700-344 OIL						
1636	PLYMOUTH LUBRICANTS	6173785	PRO PERFORMANCE	08/23/2019	686.71	08/27/2019
Total 10-53700-344 OIL:					686.71	
10-53800-220 GAS UTILITIES						
536	WE-ENERGIES	07/22-08/20/2019	3298-754-812	08/27/2019	10.12	08/27/2019
Total 10-53800-220 GAS UTILITIES:					10.12	
10-53800-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	07/22-08/20/2019	3298-754-812	08/27/2019	1,239.62	08/27/2019
Total 10-53800-221 ELECTRIC UTILITIES:					1,239.62	
10-53800-222 TELEPHONE UTILITIES						
1336	EARTHLINK BUSINESS	08/01/2019	7345438	08/07/2019	147.65	08/09/2019
5312	AT & T- VILLAGE	07/22/2019	414 351-8900 758 7	08/01/2019	33.52	08/02/2019
Total 10-53800-222 TELEPHONE UTILITIES:					181.17	
10-53800-224 CELL PHONES						
2136	VERIZON WIRELESS	Jul Aug	787066169-00001	08/12/2019	161.42	08/16/2019

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Total 10-53800-224 CELL PHONES:					161.42	
10-53800-234 BUILDING MAINTENANCE						
5689	BEST PAINTING & RESTORATIO	VH Stairway	STAIRWELL/LIGHTING	08/23/2019	1,000.00	08/27/2019
Total 10-53800-234 BUILDING MAINTENANCE:					1,000.00	
10-53800-300 MISCELLANEOUS EXPENSE						
502	VILLAGE HARDWARE - VH	1885041	WASP HORNET SPRAY	08/12/2019	23.94	08/16/2019
727	WI DEPT. OF JUSTICE	DPWBeasley	BACKGROUND CHECK DPW	08/01/2019	7.00	08/02/2019
2241	ITU ABSORB TECH, INC	7295874	DPW	08/12/2019	26.94	08/16/2019
2241	ITU ABSORB TECH, INC	7300300	DPW	08/23/2019	28.49	08/27/2019
2241	ITU ABSORB TECH, INC	7304822	DPW	08/23/2019	26.94	08/27/2019
2644	DOORMASTER GARAGE DOOR	27508	REPAIR	08/01/2019	1,326.00	08/02/2019
Total 10-53800-300 MISCELLANEOUS EXPENSE:					1,439.31	
10-53800-333 SAFETY PROGRAM						
671	AIRGAS	9091357492	GLOVES/EYEWARE	08/05/2019	402.77	08/09/2019
671	AIRGAS	9091568836	GLOVES	08/12/2019	68.80	08/16/2019
3240	FEHR GRAHAM ENGINEERING	89951	SAFETY PROGRAM	08/13/2019	77.50	08/16/2019
Total 10-53800-333 SAFETY PROGRAM:					549.07	
10-55200-435 PLAYGROUND MATERIALS						
138	DOG WASTE DEPOT	290617	DOG WASTE BAGS	08/01/2019	24.12	08/02/2019
1565	DTAK LLC	36236	WOOD FIBER	08/01/2019	2,150.00	08/02/2019
Total 10-55200-435 PLAYGROUND MATERIALS:					2,174.12	
10-55400-430 LX CLUB MATERIALS						
890	FOX POINT BAYSIDE LX CLUB	August reimbursem	AUGUST	08/14/2019	500.00	08/16/2019
Total 10-55400-430 LX CLUB MATERIALS:					500.00	
10-55440-220 GAS UTILITIES						
536	WE-ENERGIES	7/7-08/05/19	5214-367-035	08/14/2019	16.08	08/16/2019
Total 10-55440-220 GAS UTILITIES:					16.08	
10-55440-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	07/07-08/05/19	5630-222-240	08/09/2019	112.58	08/16/2019
Total 10-55440-221 ELECTRIC UTILITIES:					112.58	
10-56100-125 FORESTRY CONSULTANT						
5933	WACHTEL TREE SCIENCE & SE	50563	FORESTRY REQUESTS	08/01/2019	3,250.00	08/02/2019
5933	WACHTEL TREE SCIENCE & SE	57176	FORESTRY REQUESTS	08/01/2019	4,355.00	08/02/2019
Total 10-56100-125 FORESTRY CONSULTANT:					7,605.00	
10-56100-465 TREE MAINTENANCE						
1636	PLYMOUTH LUBRICANTS	8173731	BAR CHAIN	08/23/2019	99.40	08/27/2019
3234	WALDSCHMIDT'S TOWN & COU	680397	CHAIN LOOP	08/01/2019	1,467.49	08/02/2019
3234	WALDSCHMIDT'S TOWN & COU	680565	MISC FORESTRY	08/01/2019	203.85	08/02/2019

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Total 10-56100-465 TREE MAINTENANCE:					1,770.74	
20-13100 ACCOUNTS RECEIVABLE - SUNDRY						
1289	FRIENDS OF THE NORTH SHO	JULY 2019*	SQUARE PAYMENTS	08/22/2019	245.05	08/23/2019
Total 20-13100 ACCOUNTS RECEIVABLE - SUNDRY:					245.05	
20-61000-210 CONTRACT SERVICES						
308	DOLAN, DERMOT	7/14-7/27/19	CONTRACT	08/01/2019	1,056.64	08/02/2019
308	DOLAN, DERMOT	7/28-8/10/19	CONTRACT	08/14/2019	1,056.64	08/16/2019
308	DOLAN, DERMOT	8/1-8/24/19	CONTRACT	08/27/2019	1,056.64	08/27/2019
Total 20-61000-210 CONTRACT SERVICES:					3,169.92	
20-61000-221 ELECTRIC UTILITIES						
537	WE-ENERGIES LIB	7/8-8/6/19	UTILITY-ELECTRIC	08/14/2019	2,005.03	08/16/2019
Total 20-61000-221 ELECTRIC UTILITIES:					2,005.03	
20-61000-222 TELEPHONE UTILITIES						
2973	TIME WARNER CABLE	08/31/2019	UTILITIES- TELEPHONE 048980	08/14/2019	186.65	08/16/2019
Total 20-61000-222 TELEPHONE UTILITIES:					186.65	
20-61000-223 WATER/SEWER UTILITIES						
5543	PREMIUM WATERS, INC.	011767-07-19	UTILITY- WATER	08/14/2019	68.40	08/16/2019
Total 20-61000-223 WATER/SEWER UTILITIES:					68.40	
20-61000-230 MAINTENANCE						
139	CLEAN SOURCE LLC	073119NSL/NSL	MAINTENANCE	08/14/2019	2,993.75	08/16/2019
393	PACKERLAND RENT-A-MAT INC.	2575086/7820/0484	MAINTENANCE-NORTHSHORE	08/14/2019	105.72	08/16/2019
632	BATZNER PEST CONTROL	2740440	MAINTENANCE	08/27/2019	346.00	08/27/2019
1372	HORIZON PEST MANAGEMENT	1336	MAINTENANCE	08/27/2019	380.00	08/27/2019
2347	NORTHSHORE BANK	08/21/2019	MAINTENANCE	08/21/2019	427.09	08/23/2019
2474	MIKE INGRILLI PLUMBING	15235	MAINTENANCE	08/14/2019	667.42	08/16/2019
2474	MIKE INGRILLI PLUMBING	15272	MAINTENANCE	08/27/2019	195.03	08/27/2019
Total 20-61000-230 MAINTENANCE:					5,115.01	
20-61000-233 EQUIPMENT MAINTENANCE						
2474	MIKE INGRILLI PLUMBING	15190	EQUIPMENT MAINTENANCE	08/01/2019	561.76	08/02/2019
5778	OFFICE COPYING EQUIPMENT	AR90871	EQUIPMENT MAINTENANCE	08/14/2019	359.09	08/16/2019
5786	GREAT AMERICAN LEASING CO	25111375	COPY MACHINE	08/14/2019	328.00	08/16/2019
5786	GREAT AMERICAN LEASING CO	25289804	COPY MACHINE	08/27/2019	328.00	08/27/2019
Total 20-61000-233 EQUIPMENT MAINTENANCE:					1,576.85	
20-61000-310 SUPPLIES/EXPENSES						
2347	NORTHSHORE BANK	08/21/2019	SUPPLIES	08/21/2019	883.58	08/23/2019
Total 20-61000-310 SUPPLIES/EXPENSES:					883.58	
20-61000-322 TRAINING						
2347	NORTHSHORE BANK	08/21/2019	TRAINING	08/21/2019	628.22	08/23/2019

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Total 20-61000-322 TRAINING:					628.22	
20-61000-535 LEASE(RENT)						
37	L/V ENTERPRISES, LLC	4802	LEASE	08/14/2019	3,953.00	08/16/2019
Total 20-61000-535 LEASE(RENT):					3,953.00	
20-61000-812 ADULT BOOKS						
55	BAKER & TAYLOR BOOKS VEN	07/31/2019	ADULT BOOKS	08/01/2019	1,352.09	08/02/2019
55	BAKER & TAYLOR BOOKS VEN	08/14/2019	ADULT BOOKS	08/14/2019	562.04	08/16/2019
55	BAKER & TAYLOR BOOKS VEN	8/28/2019	ADULT BOOKS	08/27/2019	575.92	08/27/2019
2347	NORTHSHORE BANK	08/21/2019	ADULT BOOKS	08/21/2019	58.60	08/23/2019
Total 20-61000-812 ADULT BOOKS:					2,548.65	
20-61000-813 JUVENILE BOOKS						
55	BAKER & TAYLOR BOOKS VEN	07/31/2019	JUVENILE BOOKS	08/01/2019	46.48	08/02/2019
55	BAKER & TAYLOR BOOKS VEN	08/14/2019	JUVENILE BOOKS	08/14/2019	793.39	08/16/2019
55	BAKER & TAYLOR BOOKS VEN	8/28/2019	JUVENILE BOOKS	08/27/2019	152.31	08/27/2019
Total 20-61000-813 JUVENILE BOOKS:					992.18	
20-61000-815 MEDIA						
55	BAKER & TAYLOR BOOKS VEN	07/31/2019	MEDIA	08/01/2019	65.25	08/02/2019
55	BAKER & TAYLOR BOOKS VEN	08/14/2019	MEDIA	08/14/2019	212.11	08/16/2019
645	BAKER & TAYLOR ENTERTAINM	07/31/2019	MEDIA-ADULT	08/01/2019	94.30	08/02/2019
645	BAKER & TAYLOR ENTERTAINM	08/28/2019	MEDIA-ADULT	08/27/2019	122.92	08/27/2019
645	BAKER & TAYLOR ENTERTAINM	H37734000	MEDIA-ADULT	08/14/2019	10.06	08/16/2019
2401	MIDWEST TAPE	97683859	MEDIA-CHILDREN	08/14/2019	102.33	08/16/2019
2401	MIDWEST TAPE	97779198	ADULT MEDIA	08/27/2019	22.49	08/27/2019
Total 20-61000-815 MEDIA:					629.46	
20-61000-830 ADULT PROGRAMMING						
693	BAIRD, HOLLY	09/16/2019	ADULT PROGRAMMING	08/14/2019	70.00	08/16/2019
2347	NORTHSHORE BANK	08/21/2019	ADULT PROGRAMMING	08/21/2019	316.14	08/23/2019
Total 20-61000-830 ADULT PROGRAMMING:					386.14	
21-13400 SEWER RECEIVABLES						
21	LEVY, SVETLANA	07/31/2019	REFUND DOUBLEPAY	08/02/2019	104.84	08/02/2019
Total 21-13400 SEWER RECEIVABLES:					104.84	
21-53100-233 GIS MAINTENANCE						
39	RUEKERT MIELKE, INC.	128002	GIS DATA MAINT	08/01/2019	185.88	08/02/2019
Total 21-53100-233 GIS MAINTENANCE:					185.88	
21-71000-400 MATERIALS						
141	DIGGERS HOTLINE	190657801	HOTLINE TICKETS	08/01/2019	522.32	08/02/2019
141	DIGGERS HOTLINE	190757801	DIGGERS	08/14/2019	124.80	08/16/2019
2260	PORT A JOHN	1302286	MONTHLY	08/12/2019	93.00	08/16/2019
2995	AMERICAN MESSAGING	U1850150TH	PAGER	08/07/2019	40.97	08/09/2019
Total 21-71000-400 MATERIALS:					781.09	

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21-72000-220 GAS UTILITIES						
536	WE-ENERGIES	7/7-08/05/19	2417--882-521	08/14/2019	10.91	08/16/2019
Total 21-72000-220 GAS UTILITIES:					10.91	
21-72000-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	07/07-08/05/19	1670-928-034	08/09/2019	25.25	08/16/2019
536	WE-ENERGIES	7/7-08/05/19	2417--882-521	08/14/2019	94.71	08/16/2019
Total 21-72000-221 ELECTRIC UTILITIES:					119.96	
21-73000-310 SUPPLIES/EXPENSES						
415	POSTMASTER	5/1-8/1/19	MAY-AUG WATER BILLS	08/27/2019	226.89	08/27/2019
Total 21-73000-310 SUPPLIES/EXPENSES:					226.89	
21-73000-400 MATERIALS						
2136	VERIZON WIRELESS	Jul Aug	787066169-00001	08/12/2019	17.50	08/16/2019
Total 21-73000-400 MATERIALS:					17.50	
21-91000-575 PRIVATE LATERAL PROGRAM (MMSD)						
256	KAPUR & ASSOCIATES, INC.	98948	GENERAL PROF.SVCS	08/01/2019	108.00	08/02/2019
Total 21-91000-575 PRIVATE LATERAL PROGRAM (MMSD):					108.00	
21-91000-871 TELEVISIONING						
256	KAPUR & ASSOCIATES, INC.	98714	2019 SANITARY SEWER	08/01/2019	4,663.47	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98714	2019 SANITARY SEWER	08/01/2019	4,663.48	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98959	2019 SANITARY SEWER	08/01/2019	1,458.00	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98959	2019 SANITARY SEWER	08/01/2019	1,458.00	08/02/2019
Total 21-91000-871 TELEVISIONING:					12,242.95	
21-91000-888 SEWER SYSTEM IMPROVEMENTS						
256	KAPUR & ASSOCIATES, INC.	98705	GENERAL PROF.SVCS	08/01/2019	183.00	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98710	2019 SANITARY SEWER	08/01/2019	945.00	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98954	GENERAL PROF.SVCS	08/01/2019	11,747.84	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98955	2019 SANITARY SEWER	08/01/2019	945.00	08/02/2019
3265	TERRA ENGINEERING & CONS.	PayApp2	2019 SANITARY SEWER	08/01/2019	4,619.33	08/02/2019
Total 21-91000-888 SEWER SYSTEM IMPROVEMENTS:					18,440.17	
22-13200 ACCOUNTS RECEIVABLE - RECYLING						
21	LEVY, SVETLANA	07/31/2019	REFUND DOUBLEPAY	08/02/2019	19.89	08/02/2019
Total 22-13200 ACCOUNTS RECEIVABLE - RECYLING:					19.89	
22-53650-210 CONTRACT SERVICES						
1299	WASTE MANAGEMENT OF WI-M	6385796-2275-1	MONTHLY	08/01/2019	21,300.44	08/02/2019
Total 22-53650-210 CONTRACT SERVICES:					21,300.44	
23-46726 DAILY FEES						
817	VANG, DARA	08/05/2019	DEPOSIT REFUND	08/05/2019	50.00	08/06/2019
Total 23-46726 DAILY FEES:					50.00	

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23-55420-220 GAS UTILITIES						
536	WE-ENERGIES	7/7-08/05/19	8294-368-584	08/14/2019	96.24	08/16/2019
Total 23-55420-220 GAS UTILITIES:					96.24	
23-55420-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	7/7-08/05/19	8294-368-584	08/14/2019	1,547.30	08/16/2019
Total 23-55420-221 ELECTRIC UTILITIES:					1,547.30	
23-55420-222 TELEPHONE UTILITIES						
1345	AT & T U-VERSE	08/01/2019	111299163 POOL	08/14/2019	48.05	08/16/2019
Total 23-55420-222 TELEPHONE UTILITIES:					48.05	
23-55420-400 MATERIALS						
502	VILLAGE HARDWARE - VH	188236/1	POOL SUPPLIES	08/15/2019	23.37	08/16/2019
502	VILLAGE HARDWARE - VH	188456/1	POOL SUPPLIES	08/15/2019	21.57	08/16/2019
502	VILLAGE HARDWARE - VH	188982/1	POOL SUPPLIES	08/22/2019	21.49	08/23/2019
812	LINEAR GRAPHICS	11418	T SHIRTS	08/14/2019	427.05	08/16/2019
825	LENNY'S POOL SERVICE	154814	CHEMICALS	08/01/2019	275.90	08/02/2019
825	LENNY'S POOL SERVICE	154941	CHEMICALS	08/01/2019	369.20	08/02/2019
825	LENNY'S POOL SERVICE	155069	CHEMICALS	08/01/2019	317.40	08/02/2019
825	LENNY'S POOL SERVICE	155082	CHEMICALS	08/01/2019	13.50	08/02/2019
825	LENNY'S POOL SERVICE	155196	CHEMICALS	08/12/2019	294.90	08/16/2019
825	LENNY'S POOL SERVICE	155323	CHEMICALS	08/12/2019	249.90	08/16/2019
825	LENNY'S POOL SERVICE	155348	CHEMICALS	08/12/2019	155.38	08/16/2019
825	LENNY'S POOL SERVICE	155451	CHEMICALS	08/23/2019	199.70	08/27/2019
825	LENNY'S POOL SERVICE	155556	CHEMICALS	08/23/2019	221.30	08/27/2019
1175	TRIPOLI COUNTRY CLUB	08/05/2019	MEET	08/05/2019	24.00	08/06/2019
1766	CONFLUENCE GRAPHICS	70911	DOOR HANGERS	08/01/2019	636.65	08/02/2019
5470	SHOWCASE AWARDS & PROM	98775	AWARDS	07/08/2019	873.20	08/02/2019
Total 23-55420-400 MATERIALS:					4,124.51	
24-44430 ELECTRICAL PERMIT						
923	WALKOWIAK ELECTRIC INC	8.002783	NOT FOX POINT	08/22/2019	.00	08/23/2019
Total 24-44430 ELECTRICAL PERMIT:					.00	
24-52400-224 CELL PHONES						
2136	VERIZON WIRELESS	Jul Aug	787066169-00001	08/12/2019	60.00	08/16/2019
Total 24-52400-224 CELL PHONES:					60.00	
25-13200 ACCT RECEIVABLE - RESIDENTIAL						
21	LEVY, SVETLANA	07/31/2019	REFUND DOUBLEPAY	08/02/2019	43.60	08/02/2019
Total 25-13200 ACCT RECEIVABLE - RESIDENTIAL :					43.60	
25-53410-400 MATERIALS						
141	DIGGERS HOTLINE	190657801	HOTLINE TICKETS	08/01/2019	522.32	08/02/2019
141	DIGGERS HOTLINE	190757801	DIGGERS	08/14/2019	124.80	08/16/2019
Total 25-53410-400 MATERIALS:					647.12	
25-53420-400 MATERIALS						
280	LIESENER SOILS INC.	0171976	SOIL	08/05/2019	660.00	08/09/2019

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5986	WSO GRADING & EXCAVATING	3778	BRADLEY/SANTA MONICA	08/06/2019	1,365.00	08/09/2019
Total 25-53420-400 MATERIALS:					2,025.00	
25-53420-483 LANDSCAPING						
787	PROFESSIONAL GROUNDS MG	56054	DUMP MOWING	08/05/2019	200.00	08/09/2019
Total 25-53420-483 LANDSCAPING:					200.00	
25-53660-400 MATERIALS						
5293	LANNON STONE PRODUCTS	88922	STONE	08/01/2019	879.92	08/02/2019
Total 25-53660-400 MATERIALS:					879.92	
25-53800-210 CONTRACT SERVICES						
535	MUNICIPAL LAW & LITIGATION	3253	VILLAGE ATTORNEY	08/07/2019	2,069.00	08/09/2019
2136	VERIZON WIRELESS	Jul Aug	787066169-00001	08/12/2019	20.00	08/16/2019
Total 25-53800-210 CONTRACT SERVICES:					2,089.00	
25-53800-233 GIS MAINTENANCE						
39	RUEKERT MIELKE, INC.	128002	GIS DATA MAINT	08/01/2019	185.87	08/02/2019
Total 25-53800-233 GIS MAINTENANCE:					185.87	
25-53800-234 INDIAN CREEK PARK MAINTENANCE						
2824	MAREK LANDSCAPING	4496	INVASIVE CONTROL	08/23/2019	1,980.00	08/27/2019
2824	MAREK LANDSCAPING	4520	PURPLE LOOSTRIFE/REED	08/23/2019	2,525.00	08/27/2019
Total 25-53800-234 INDIAN CREEK PARK MAINTENANCE:					4,505.00	
25-55410-310 SUPPLIES/EXPENSES						
415	POSTMASTER	5/1-8/1/19	MAY-AUG WATER BILLS	08/27/2019	226.89	08/27/2019
Total 25-55410-310 SUPPLIES/EXPENSES:					226.89	
25-91500-800 WPDES COMPLIANCE PROGRAM						
378	NORTH SHORE WATER COMMI	SW08092019FPT	ANALYSIS	08/12/2019	86.00	08/16/2019
Total 25-91500-800 WPDES COMPLIANCE PROGRAM:					86.00	
25-91500-801 VEHICLES & EQUIPMENT						
597	BROOKS TRACTOR INC.	C94138	BACKHOE LOADER	08/12/2019	15,171.80	08/16/2019
Total 25-91500-801 VEHICLES & EQUIPMENT:					15,171.80	
25-91500-833 STORM SEWER SYSTEM IMPROVE.						
256	KAPUR & ASSOCIATES, INC.	98703	STORM GOODRICH	08/01/2019	154.06	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98950	STORM GOODRICH	08/01/2019	2,266.24	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98954	GENERAL PROF.SVCS	08/01/2019	11,747.84	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98956	GREENTREE RETAINING	08/01/2019	11,085.07	08/02/2019
732	HIGHWAY LANDSCAPERS, INC.	PayApp2 SW19.001	2019 STORM WATER	08/01/2019	58,256.62	08/02/2019
732	HIGHWAY LANDSCAPERS, INC.	PayApp3	2019 STORM WATER	08/13/2019	6,375.00	08/16/2019
Total 25-91500-833 STORM SEWER SYSTEM IMPROVE.:					89,884.83	
25-91500-845 STORM SEWER-CLUB/LILAC/POPLAR						
256	KAPUR & ASSOCIATES, INC.	98701	2018 STREET UTILITY	08/01/2019	863.72	08/02/2019

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256	KAPUR & ASSOCIATES, INC.	98709	GENERAL PROF.SVCS	08/01/2019	6,328.39	08/02/2019
574	UPI, LLC	PayApp6	2018 ROAD & UTILITY	08/12/2019	12,527.25	08/16/2019
849	WOOD SEWER & EXCAVATING,	PayApp2 RU19.001	2019 ROAD & UTILITY	08/01/2019	102,029.85	08/02/2019
Total 25-91500-845 STORM SEWER-CLUB/LILAC/POPLAR:					121,749.21	
30-58100-312 BORROWING EXPENSE						
125	MOODY'S INVESTORS SERVIC	P0308379	CUSTOMER 9000004414	08/15/2019	12,500.00	08/16/2019
806	ROBERT W. BAIRD & CO	PF-288016	OBLIGATION PROMISSORY 201	08/15/2019	20,000.00	08/16/2019
Total 30-58100-312 BORROWING EXPENSE:					32,500.00	
30-58100-615 PAYMENT TO ESCROW AGENT						
302	ASSOCIATED BANK	13076	BOND SERIES 2011	08/15/2019	475.00	08/16/2019
302	ASSOCIATED BANK	13077	BOND SERIES 2012B	08/15/2019	475.00	08/16/2019
302	ASSOCIATED BANK	13078	SERIES 2015	08/15/2019	475.00	08/16/2019
302	ASSOCIATED BANK	13079	SERIES 2016A	08/15/2019	475.00	08/16/2019
302	ASSOCIATED BANK	13080	SERIES 2018	08/15/2019	475.00	08/16/2019
302	ASSOCIATED BANK	13081	BOND SERIES 2016B	08/15/2019	475.00	08/16/2019
Total 30-58100-615 PAYMENT TO ESCROW AGENT:					2,850.00	
40-91100-816 SMALL EQUIPMENT PURCHASES						
828	GLOBAL EQUIPMENT CO. INC.	114671091	MINICADE	08/01/2019	180.50	08/02/2019
4135	KUSTOM SIGNALS, INC.	565786	FALCON HR	08/09/2019	1,364.00	08/16/2019
Total 40-91100-816 SMALL EQUIPMENT PURCHASES:					1,544.50	
40-91400-803 REPLACE BACKHOE/LOADER						
597	BROOKS TRACTOR INC.	C94138	BACKHOE LOADER	08/12/2019	45,515.40	08/16/2019
1378	VIKING COMMUNICATIONS	108369	RADIO ANTENNA KITS	08/12/2019	92.50	08/16/2019
Total 40-91400-803 REPLACE BACKHOE/LOADER:					45,607.90	
40-91500-801 STREET RESURFACING						
256	KAPUR & ASSOCIATES, INC.	98701	2018 STREET UTILITY	08/01/2019	863.73	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98949	2018 STREET UTILITY	08/01/2019	115.40	08/02/2019
327	MENARD'S - MILWAUKEE	91780	MORTAR	08/21/2019	585.06	08/23/2019
357	MUNSON INC.	81856	CONTRACT	08/01/2019	8,885.00	08/02/2019
357	MUNSON INC.	92966	STREET MAINTENANCE	08/01/2019	34,269.00	08/02/2019
849	WOOD SEWER & EXCAVATING,	PayApp2 RU19.001	2019 ROAD & UTILITY	08/01/2019	5,250.00	08/02/2019
Total 40-91500-801 STREET RESURFACING:					49,968.19	
40-91500-825 PROJECT MANAGEMENT						
256	KAPUR & ASSOCIATES, INC.	98711	GREENTREE RETAINING	08/01/2019	3,261.32	08/02/2019
Total 40-91500-825 PROJECT MANAGEMENT:					3,261.32	
40-91600-823 REINVENTORY VILLAGE TREES						
5933	WACHTEL TREE SCIENCE & SE	57177	TREE INVENTORY	08/01/2019	20,000.00	08/02/2019
5933	WACHTEL TREE SCIENCE & SE	58473	TREE INVENTORY	08/23/2019	20,000.00	08/27/2019
Total 40-91600-823 REINVENTORY VILLAGE TREES:					40,000.00	
40-91600-833 TREE REPLACEMENT						
5933	WACHTEL TREE SCIENCE & SE	50564	EAB	08/01/2019	5,390.00	08/02/2019

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Total 40-91600-833 TREE REPLACEMENT:					5,390.00	
50-81000-500 CONTINGENCY FUND						
535	MUNICIPAL LAW & LITIGATION	3253	VILLAGE ATTORNEY	08/07/2019	134.50	08/09/2019
Total 50-81000-500 CONTINGENCY FUND:					134.50	
50-81000-601 SOURCE OF WATER SUPPLY						
378	NORTH SHORE WATER COMMI	40	MONTHLY	08/01/2019	17,787.41	08/02/2019
Total 50-81000-601 SOURCE OF WATER SUPPLY:					17,787.41	
50-81000-640 OPERATIONS LABOR WATER MAINS						
2839	CITY WATER LLC	631	HOURLY	08/07/2019	829.50	08/09/2019
Total 50-81000-640 OPERATIONS LABOR WATER MAINS:					829.50	
50-81000-651 MAINTENANCE OF MAINS						
141	DIGGERS HOTLINE	190657801	HOTLINE TICKETS	08/01/2019	522.31	08/02/2019
141	DIGGERS HOTLINE	190757801	DIGGERS	08/14/2019	124.80	08/16/2019
281	LINCOLN CONTRACTORS SUP	M25875	MARKING PAINT	08/14/2019	102.96	08/16/2019
357	MUNSON INC.	81853	REPAIR	08/01/2019	629.00	08/02/2019
357	MUNSON INC.	81854	WATERMAIN PATCHES	08/01/2019	20,896.00	08/02/2019
474	CORE & MAIN LP	K947875	LUBE/REP CLP	08/14/2019	2,021.48	08/16/2019
827	VALLEY HYDRO-EXCAVATON, L	13631	VAC OUT WATERMAIN	08/01/2019	1,237.50	08/02/2019
1179	MILWAUKEE RUBBER PRODUC	0087306	HOSE/CLAMPS	08/14/2019	89.25	08/16/2019
2241	ITU ABSORB TECH, INC	7242626	WATER	08/12/2019	11.26	08/16/2019
2241	ITU ABSORB TECH, INC	7260427	WATER DEPT	08/12/2019	8.34	08/16/2019
2241	ITU ABSORB TECH, INC	7287222	WATER DEPT	08/01/2019	8.34	08/02/2019
2241	ITU ABSORB TECH, INC	7291559	WATER	08/12/2019	43.95	08/16/2019
2241	ITU ABSORB TECH, INC	7295873	WATER DEPT	08/14/2019	8.34	08/16/2019
2241	ITU ABSORB TECH, INC	7822670	WATER DEPT	08/01/2019	8.34	08/02/2019
2995	AMERICAN MESSAGING	U1850150TH	PAGER	08/07/2019	40.98	08/09/2019
3206	BRILLIANT DPI, INC	35280	DOOR HANGERS	08/14/2019	263.95	08/16/2019
5293	LANNON STONE PRODUCTS	88922	STONE	08/01/2019	6,002.03	08/02/2019
Total 50-81000-651 MAINTENANCE OF MAINS:					32,018.83	
50-81000-653 MAINTENANCE OF METERS						
1074	MATHESON TRI-GAS, INC	1996056	CARBON DIOXIDE	08/01/2019	19.53	08/02/2019
3206	BRILLIANT DPI, INC	35280	CALL CARDS	08/14/2019	57.50	08/16/2019
Total 50-81000-653 MAINTENANCE OF METERS:					77.03	
50-81000-655 MAINTENANCE OF OTHER PLANT						
16	NORTHERN LAKE SERVICE INC	359890	LEAD TEST	08/01/2019	30.00	08/02/2019
Total 50-81000-655 MAINTENANCE OF OTHER PLANT:					30.00	
50-81000-800 CAPITAL OUTLAY						
256	KAPUR & ASSOCIATES, INC.	98701	2018 STREET UTILITY	08/01/2019	863.73	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98709	GENERAL PROF.SVCS	08/01/2019	1.00	08/02/2019
256	KAPUR & ASSOCIATES, INC.	98709	GENERAL PROF.SVCS	08/01/2019	6,327.39	08/02/2019
574	UPI, LLC	PayApp6	2018 ROAD & UTILITY	08/12/2019	12,527.25	08/16/2019
849	WOOD SEWER & EXCAVATING,	PayApp2 RU19.001	2019 ROAD & UTILITY	08/01/2019	293,153.70	08/02/2019
3252	MIDWEST METER INC.	0113707	METER	08/14/2019	774.45	08/16/2019

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Total 50-81000-800 CAPITAL OUTLAY:					313,647.52	
50-81000-844 NSWC CAPITAL PROJECTS						
378	NORTH SHORE WATER COMMI	08/14/2019 RESER	RESERVOIR UPGRADE	08/15/2019	1,337.63	08/16/2019
Total 50-81000-844 NSWC CAPITAL PROJECTS:					1,337.63	
50-81000-903 SUPPLIES AND EXPENSE						
1766	CONFLUENCE GRAPHICS	70953	BUSINESS CARDS	08/01/2019	80.00	08/02/2019
Total 50-81000-903 SUPPLIES AND EXPENSE:					80.00	
50-81000-921 OFFICE SUPPLIES AND EXPENSE						
415	POSTMASTER	5/1-8/1/19	MAY-AUG WATER BILLS	08/27/2019	226.90	08/27/2019
2136	VERIZON WIRELESS	Jul Aug	787066169-00001	08/12/2019	17.50	08/16/2019
Total 50-81000-921 OFFICE SUPPLIES AND EXPENSE:					244.40	
50-81000-923 OUTSIDE SERVICES EMPLOYED						
2839	CITY WATER LLC	631	MONTHLY	08/07/2019	8,100.00	08/09/2019
Total 50-81000-923 OUTSIDE SERVICES EMPLOYED:					8,100.00	
50-81000-930 MISC GENERAL EXPENSE						
900	AWWA	Q	Membership 2019-2	08/01/2019	371.00	08/02/2019
2385	WISCONSIN RURAL WATER AS	S3533	MEMBERSHIP RENEWAL	08/14/2019	520.00	08/16/2019
Total 50-81000-930 MISC GENERAL EXPENSE:					891.00	
50-81000-933 TRANSPORTATION EXPENSE						
597	BROOKS TRACTOR INC.	C94138	BACKHOE LOADER	08/12/2019	15,171.80	08/16/2019
101685	FASTENAL COMPANY	WIMI2148015	SPAS	08/23/2019	73.98	08/27/2019
Total 50-81000-933 TRANSPORTATION EXPENSE:					15,245.78	
50-81420 ACCOUNTS RECEIVABLES WATER						
21	LEVY, SVETLANA	07/31/2019	REFUND DOUBLEPAY	08/02/2019	122.27	08/02/2019
Total 50-81420 ACCOUNTS RECEIVABLES WATER:					122.27	
72-27000 DONATIONS FOR BOOKS						
2347	NORTHSHORE BANK	08/21/2019	GENERAL	08/21/2019	206.09	08/23/2019
Total 72-27000 DONATIONS FOR BOOKS:					206.09	
72-27015 LIBRARY LOST BOOKS						
55	BAKER & TAYLOR BOOKS VEN	07/31/2019	LOST LIBRARY BOOK	08/01/2019	50.01	08/02/2019
55	BAKER & TAYLOR BOOKS VEN	08/14/2019	LOST LIBRARY BOOK	08/14/2019	345.82	08/16/2019
Total 72-27015 LIBRARY LOST BOOKS:					395.83	
72-27030 FRIENDS OF THE NSL - DONATION						
55	BAKER & TAYLOR BOOKS VEN	07/31/2019	ADULT SERVICES	08/01/2019	40.84	08/02/2019
55	BAKER & TAYLOR BOOKS VEN	08/14/2019	ADULT SERVICES	08/14/2019	637.39	08/16/2019
204	BOOK PAGE	S43082	REF/TECH	08/14/2019	576.00	08/16/2019
2347	NORTHSHORE BANK	08/21/2019	ADULT /CHILDRENS SERVICES	08/21/2019	507.69	08/23/2019

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Total 72-27030 FRIENDS OF THE NSL - DONATION:					1,761.92	
Grand Totals:					<u>1,043,340.73</u>	

Date Approved: _____

Village Manager: _____

Village Board: _____

STATE OF WISCONSIN VILLAGE OF FOX POINT MILWAUKEE COUNTY
RESOLUTION NO. 2019-__

RESOLUTION OF COMMENDATION

WHEREAS, Walter Baehr began his career with the Village of Fox Point Department of Public Works as a Mechanic on December 16, 1991; and

WHEREAS, Walter Baehr served in various capacities throughout his career, including laborer and equipment operator ; and

WHEREAS, Walter Baehr faithfully performed all required duties throughout his nearly 28-year career with the Village; and

WHEREAS, Walter Baehr embodied the very essence of a Fox Point employee – service to the residents above all else; and

WHEREAS, Walter Baehr fostered long-lasting relationships and friendships with residents and coworkers alike; and

WHEREAS, Walter Baehr announced his retirement effective August 23, 2019,

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Fox Point extends its sincere appreciation to **Walter Baehr** for his dedication and service to the Village of Fox Point and wishes him well in all his future endeavors.

PASSED AND ADOPTED this 10th day of September, 2019.

Douglas H. Frazer
Village President

Kelly A. Meyer, *CMC/WCMC*
Village Clerk/Treasurer

STATE OF WISCONSIN VILLAGE OF FOX POINT MILWAUKEE COUNTY

RESOLUTION NO. 2019-__

RESOLUTION OF COMMENDATION

WHEREAS, Dale Gatford began his career with the Village of Fox Point Department of Public Works as a Laborer on May 3, 2010; and

WHEREAS, Dale Gatford faithfully performed all required duties throughout his 9-year career with the Village; and

WHEREAS, Dale Gatford also faithfully served the public in his previous roles as an employee of the Fox Point/Bayside School District and the Bayside Department of Public Works for 25 years; and

WHEREAS, Dale Gatford has embodied the very essence of a Fox Point employee – service to the residents above all else; and

WHEREAS, Dale Gatford fostered long-lasting relationships and friendships with residents and coworkers alike; and

WHEREAS, Dale Gatford announced his retirement effective October 1, 2019,

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Fox Point extends its sincere appreciation to **Dale Gatford** for his dedication and service to the Village of Fox Point and wishes him well in all his future endeavors.

PASSED AND ADOPTED this 10th day of September, 2019.

Douglas H. Frazer
Village President

Kelly A. Meyer, *CMC/WCMC*
Village Clerk/Treasurer

Municipal LAW
& L I T I G A T I O N G R O U P

MEMORANDUM

To: Village Board
Village of Fox Point

From: Eric J. Larson
Village Attorney

Re: Board of Appeals

Date: September 5, 2019

Ladies & Gentlemen,

At a recent Village Board meeting the Village Board voted to place on an upcoming Village Board agenda, a presentation from the Village Attorney concerning the role of the Board of Appeals. I understand this will come before you at your regular meeting on September 10, 2019. I understand that this arises from the general question of “Why do we have a Board of Appeals?” coupled with some concerns about whether the Board of Appeals could make decisions contrary to what the Village Board would intend.

Here is an executive summary of the issue. Any municipality in Wisconsin that engages in zoning is required by law to have a Board of Appeals. This has been a requirement since zoning began in this country the early 1900’s and is a nationwide standard practice. The reason for this has constitutional foundations. Zoning diminishes the available uses of property. To overcome challenges that zoning is an unconstitutional “taking” of property, very early in the development of zoning laws municipalities and courts required that there be a due process procedure, for property owners to be heard, and to allow variances and exceptions to be made when warranted. The due process “escape valve” of the Board of Appeals, which adjudicates the balance of private rights against public interests, has continued to date, and is a firmly established legal necessity.

The Board of Appeals has three key powers: (1) To hear and decide appeals from administrative decisions; (2) To grant special exceptions, subject to the limitations on doing so that are created by Village ordinance; and (3) To grant variances, subject to a strict statutory variance standards. The Village Board has no ability to modify these Statutory powers, subject to the following. If the Village Board is concerned about the second of these powers, concerning special exceptions, the Village Board can modify the situations where special exceptions are permitted, by amending the zoning code.

I will refer to the following materials in my presentation. The attached is an excerpt from a larger packet of training materials I presented to the Board of Appeals on December 5, 2017. I would be happy to provide the complete packet of training materials on request but be forewarned that the whole spiral bound packet is more than 150 pages in length. If you have any particular questions, aside from the general question that brought this forward, I will be happy to respond to those as well.

I look forward to discussing this with you.

-- EJJ

I. Zoning Board of Appeals Authority

a. Statutes

- i. §61.35, Wis. Stats.
- ii. §62.23, Wis. Stats.
- iii. 2017 Wisconsin Act 67

b. Ordinance

- i. Section 745-36
- ii. Accessory Structure Standards

c. Rules of Procedure

61.35 Village planning. Section 62.23 applies to villages, and the powers and duties conferred and imposed by s. 62.23 upon mayors, councils and specified city officials are hereby conferred upon presidents, village boards, and village officials performing duties similar to the duties of such specified city officials, respectively. Any ordinance or resolution passed prior to May 30, 1925, by any village board under s. 61.35, 1923 stats., shall remain in effect until repealed or amended by such village board.

History: 1981 c. 390.

The line distinguishing general police power regulation from zoning ordinances is far from clear. The question of whether a particular enactment constitutes a zoning ordinance is often a matter of degree. Broad statements of the purposes of zoning and the purposes of an ordinance are not helpful in distinguishing a zoning ordinance from an ordinance enacted pursuant to non-zoning police power. The statutorily enumerated purposes of zoning are not the exclusive domain of zoning regulation. A more specific and analytically helpful formulation of the purpose of zoning, at least in the present case, is to separate incompatible land uses. Multiple factors are considered and discussed. *Zwiefelhofer v. Town of Cooks Valley*, 2012 WI 7, 338 Wis. 2d 488, 809 N.W. 2d 362, 10-2398.

(e) Board of appeals.

1. The council which enacts zoning regulations pursuant to this section shall by ordinance provide for the appointment of a board of appeals, and shall provide in such regulations that said board of appeals may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this subdivision shall preclude the granting of special exceptions by the city plan commission or the common council in accordance with the zoning regulations adopted pursuant to this section which were in effect on July 7, 1973 or adopted after that date.
2. The board of appeals shall consist of 5 members appointed by the mayor subject to confirmation of the common council for terms of 3 years, except that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the mayor for cause upon written charges and after public hearing. The mayor shall designate one of the members as chairperson. The board may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.
3. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this section. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- 3m. If a quorum is present, the board of appeals may take action under this subsection by a majority vote of the members present.
4. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
5. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion,

cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

6. The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. In any action involving a listed property, as defined in s. 44.31 (4), the board shall consider any suggested alternatives or recommended decision submitted by the landmarks commission or the planning commission.
7.
 - a. In this subdivision, "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, "use variance" means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.
 - b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - c. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - d. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.
 - e. The council of a city may enact an ordinance specifying an expiration date for a variance granted under this subdivision if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of appeals does not specify an expiration date for the variance, a variance granted under this subdivision does not expire unless, at the time it is granted, the board of appeals specifies in the variance a specific date by

which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.

- f. A variance granted under this subdivision runs with the land.
8. In exercising the above mentioned powers such board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
10. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may, within 30 days after the filing of the decision in the office of the board of appeals, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the board of appeals and on due cause shown, grant a restraining order. The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.
14. Costs shall not be allowed against the board unless it shall appear to the court that the board acted with gross negligence or in bad faith, or with malice, in making the decision appealed from.
15. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

SECTION 18. 62.23 (7) (e) 7. a. of the statutes is created to read:

62.23 (7) (e) 7. a. In this subdivision, "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, "use variance" means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

SECTION 19. 62.23 (7) (e) 7. d. of the statutes is created to read:

62.23 (7) (e) 7. d. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

Village of Fox Point, WI
Friday, December 1, 2017

Chapter 745. Zoning

§ 745-36. Board of Appeals.

[Amended 8-10-2010 by Ord. No. 2010-12]

- A. The Village President, pursuant to the Wisconsin Statutes, shall, subject to the confirmation by the Board of Trustees, appoint members and alternate members of a Board of Appeals with terms of office commencing April 1 and shall designate one of the members as Chairperson.
- B. The Board of Appeals shall have all the powers and authority vested in such a board by § 62.23(7)(e), Wis. Stats., and all acts amendatory thereof and supplementary thereto.
- C. In addition to the authority granted under § 62.23(7)(e), Wis. Stats., the Board of Appeals shall have the power and authority to grant a special exception from the dimensional requirements of this chapter where the Board of Appeals finds it necessary, based upon the facts of an individual case, to provide a reasonable accommodation to a disabled person, subject to the following. A special exception under this section may waive or modify the dimensional requirements of applicable zoning regulation(s) only to the extent reasonably required to provide a reasonable accommodation for the disability. A special exception shall not fundamentally alter the nature of a program (e.g., altering the fundamental purpose of the zoning regulation) or impose undue financial or administrative burdens on the Village of Fox Point. Dimensional requirements for which a special exception may be granted under this section are limited to open area, front yard, rear yard and side yard requirements of applicable zoning district regulations. A special exception granted under this section should generally expire upon the termination of the occupancy of the property by the disabled person, and the Board of Appeals may so condition the grant of the special exception and require the recording of a deed restriction setting forth the terms of the special exception and the termination thereof. For purposes of this section, "disability" shall be construed to have the meaning set forth in 42 U.S.C. § 12102, Title II of the Americans With Disabilities Act, and regulations pertaining thereto, as amended from time to time.
- D. The Board of Appeals may adopt such rules or regulations with respect to the time of its meetings and the procedure at its meetings as it may deem appropriate and shall, subject to the Wisconsin Statutes applicable thereto, specify the procedure pursuant to which appeals shall be taken to it, be heard and disposed of by it. All rules or regulations adopted by the Board of Appeals shall be reduced to written form, and the original thereof, identified by signature of the Chairperson of the Board, shall be filed in the office of the Village Clerk/Treasurer.
- E. Wherever in the ordinances of the Village of Fox Point reference is made to a Board of Appeals, it shall be deemed to refer to the Board appointed pursuant to this section of this chapter.

- F. In Board of Appeals actions involving special exceptions and variances, in addition to any notice requirements under any applicable state or federal law, or as otherwise provided in the Village of Fox Point Code, the Village Clerk/Treasurer, or his or her designee, shall provide notice by first class mailing to the owners or occupants of all properties within 500 feet of the subject property at least 21 days prior to any hearing or proceeding.
- G. A filing fee as described in Chapter 63 of this Code shall be paid to the Village at the time of filing any application with the Board of Appeals.

Fox Point Accessory Structure (including fences, arbors, etc.) Special Exception Standards

745-7(B)(3)(h) [1] [Fencing for corner/Irregularly shaped lot]

In the event a building is irregularly configured, such as an L- or V-shaped structure, or the building is located upon a corner lot, irregularly shaped lot, or lot which abuts upon more than one public or private road, such that there are or appear to be multiple front, side, or rear sides of the structure, the determination of the front, rear or side areas, as well as the determination of the location of any fencing, shall be referred by the Building Inspector to the Board of Appeals, which shall then review the matter without requirement of any appeal fee. The Board of Appeals shall treat the application as a request for a special exception, which shall specifically not be subject to the requirements applicable to zoning variances, and shall proceed in accordance with Subsection B(3)(i) herein. The Board of Appeals shall consider the least obtrusive alternative, and any other criteria as set forth in the provisions of this chapter which serve to balance the interests of the applicant with the interests of the surrounding property owners.

745-7(B)(3)(h) [2] [Fencing forward of front lot line special exception]

No new fence, wall, architectural screening device, driveway gate or arbor shall be located beyond the front line of the principal building unless permitted by the Board of Appeals by special exception after a hearing, pursuant to the procedures described in Subsection B(3)(i) below. The Board of Appeals may grant a special exception under this subsection only if it finds that the fence, wall, architectural screening device, arbor or driveway gate is reasonably necessary to protect the safety of people residing on the property, in addition to the additional findings and conditions required by Subsection B(3)(i) below. Every special exception granted by the Board of Appeals for a driveway gate shall be conditioned upon the applicant filing with the Village Clerk/Treasurer the written approval of the Village Police Chief in consultation with the Fire Chief for the specific driveway gate and gate location that is proposed; and if such approval is denied, the special exception is thereby denied.

745-7(B)(3)(i) [Special exception, generally]

Special exceptions. A special exception to the height, size, material, design, setback or other physical standards set forth in this subsection or to allow a driveway gate may, upon filing a written application, be considered by the Board of Appeals after a hearing. The application must include an accurate visual rendering of the proposed wall, architectural screening device, driveway gate or arbor, along with a written statement outlining the applicant's need for the same. Notice of hearing shall be given to all property owners within a radius of 500 feet of the property upon which the fence, wall, architectural screening device, driveway gate or arbor is proposed to be constructed and the notice shall include the visual rendering submitted by the applicant. The Board of Appeals may grant the request for a special exception upon finding that the property owner has shown clear and convincing evidence to believe that the applicant has a legitimate need for the special exception and that granting the special exception will not adversely affect the health, safety or welfare of the community or the immediate area where located and will not impede the purpose, spirit and intent of this section, in addition to such other specific findings as may be required by other subsections of this section. Every special exception granted by the Board of Appeals shall be conditioned upon the applicant submitting the visual rendering to the Village Building Board and receiving the Building Board's approval of the architectural appearance, design and construction materials for the proposed fence, wall, architectural screening device, arbor or driveway gate, taking into consideration the existing development on the lot and in the surrounding neighborhood, and if the Building Board denies the application, the special exception is thereby denied.

APPROVED

3/2/2006

RULES OF PROCEDURES FOX POINT BOARD OF APPEALS

Section 1. OFFICERS.

- (a) Chair to preside. The Chair shall preside at all meeting of the Board. When the Chair is absent or otherwise unable to act, the Board members present shall appoint one member to be acting Chair.
- (b) Secretary. The Village Clerk shall serve as Secretary of the Board.
- (c) Duties of the Secretary. The Secretary shall keep minutes of each meeting of the Board and shall systematically file all papers pertaining to each appeal taken to the Board, and shall perform such other duties as provided by these rules as may be requested from time to time by the Board or the Chair.

Section 2. MEETINGS.

- (a) Place. Meetings shall be held at the Fox Point Village Hall, or any such place designated in the Village and open to the Public.
- (b) Call. Whenever an appeal has been filed with the Secretary or there is other business to come before the Board, the Secretary shall advise the Chair who shall then designate a time and location for meeting of the Board. The Chair may call a meeting at any time, or a meeting may be called by any two members of the Board.
- (c) Notice of meetings. Written notice of meetings shall be given to each member of the Board and to the alternate members and as required by open meeting laws of the State of Wisconsin. In the event an appeal is to be heard, written notice also shall be given to the appellant and to the owner of each parcel of real estate adjoining the parcel of real estate involved in the appeal, and to the building inspector along with such additional notice as may be required by applicable laws. (See Section 14.35 of the Fox Point Village Code).
- (d) Oath. When testimony under oath is required, the oath shall be administered by the Chair or the Secretary in the form and manner provided by Section 906.03 of the Wisconsin Statutes.
- (e) Open to public. All meetings shall be open to the public, except that the Board may convene into closed session when permitted to do so by the open meeting laws of the State of Wisconsin.

Section 3. APPEALS.

(a) Time. Every appeal to the Board shall be taken and filed with the Secretary of the Board within 30 days from the date of refusal to issue a permit or from the date of the making of any order, ruling, decision or determination on which an appeal is taken. If the 30th day falls on a Sunday or legal holiday, the appeal may be taken on the next succeeding business day.

(b) Form. Every appeal shall be in writing showing the names and addresses of the persons appealing, a description of the premises affected, a statement that an appeal is made to the Board of Appeals, the date of the refusal to issue a permit by the building inspector, or of any other order, ruling, decision or determination from which the appeal is taken, and a statement of the grounds for the appeal. Such written appeal shall be signed by the owner of the property affected, or by the lessee of such property if the lessee is the one interested, or by counsel for such owner or lessee. The signature of the appellant or the appellant's counsel may be in the form of an original, photocopy, facsimile or electronic signature. If the Board or the Chair believes additional information is necessary, it shall be supplied by the appellant upon request of the Chair or the Secretary of the Board. Failure or refusal on the part of the appellant to furnish such additional information shall be grounds for dismissing of the appeal.

(c) Electronic transmission. When service of documents is required by these rules, and when applicable laws do not require a different result, service may be accomplished by facsimile transmission or e-mail transmission, provided that in each case the document shall be mailed by U.S. mail the same day as the facsimile or e-mail transmission. Service shall be effective as of the time and date of the facsimile or e-mail transmission provided that the facsimile or e-mail message is received by the party to be served. The party transmitting the facsimile or e-mail is solely responsible for ensuring its timely and complete receipt.

(d) Papers by building inspector. On being advised that an appeal has been taken, the building inspector or other person or persons from whose order, ruling, decision or determination the appeal has been taken, shall file such documents as he or they may have in respect to the matter appealed from, and also a statement as to why a permit was refused, or other order, ruling, decision or determination made.

(e) When taken. An appeal shall be considered properly taken when filed with the Secretary of the Board within the time above provided, and upon receipt of the fee as established by the Village Board. The filing fee is not refundable.

(f) Who may appeal. An appeal may be taken by the owner or lessee of the property affected, and may also be taken by an aggrieved neighboring property owner or lessee seeking the revocation of any permit, order, ruling, decision or determination on which the appeal is taken, which the neighbor deems to have been improperly issued or made. Where the lessee is an appellant, a notice of hearing and of the decision shall be given to the lessee as well as to the owner.

(g) Hearing. The appeal shall be heard at the time set in the notice, and in the event of the appellant not appearing personally or by attorney or other authorized representative, the Board may dismiss the appeal or make decision therein on the records before it. The Board may determine the rules governing the conduct of hearings, including the introduction of evidence, which it deems to be appropriate for purposes of each hearing, which shall be communicated to the parties.

(h) Adjournment. The time for hearing an appeal may be adjourned to a day certain, as the Board may order, which shall be considered a continuance of the hearing, and no further notice of the adjournment need to be given other than announcement at the time of the hearing subject to open meeting laws of the State of Wisconsin.

(i) Quorum. Four members of the Board shall constitute a quorum for all matters arising before the Board, but any lesser number shall constitute a quorum for the sole purpose of adjourning to a day certain.

(j) Method of Action. Unless applicable laws require the vote of a larger number or proportion of members, the affirmative vote of a majority of the members of the Board present and voting at a meeting at which a quorum is present shall constitute an action of the Board.

(k) Rulings of the Chair. Rulings of the Board Chair on all procedural matters stand unless overturned by the Board upon motion duly made, seconded and adopted.

(l) Disposition. The disposition of any appeal shall be in the form of a motion duly adopted and entered in the minutes of the meeting, unless the motion indicates that a more formal written determination will be issued. A copy of each motion adopted by the board deciding an appeal, shall be delivered or mailed to the appellant, to the building inspector, or other person or persons for whom the appeal is taken.

Section 4. INTERPRETATION.

The Board shall have the obligation to interpret these rules. The Board's interpretation of these rule shall be final.

Section 5. ENFORCEMENT.

These rules are for the benefit of the Board, and are enforceable by the Board. The Board reserves the right to conduct its proceedings differently than as described herein as it deems appropriate in the circumstances. Failure of the Board to follow or enforce the requirements of these rules shall not be actionable.

Section 6. AMENDMENTS.

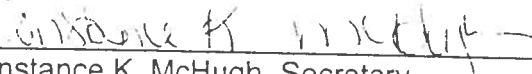
These rules may be amended at any meeting of the Board by majority vote.

Dated this 16th day of April, 2006.

VILLAGE OF FOX POINT BOARD OF APPEALS


Henry E. Fuldner, Chair

ATTEST:


Constance K. McHugh, Secretary

Municipal LAW
& L I T I G A T I O N G R O U P

MEMORANDUM

To: Village Board
Village of Fox Point

From: Eric J. Larson
Village Attorney

Re: Chapter 540 Update

Date: September 5, 2019

Ladies & Gentlemen,

For many years, concerns have been raised about the Village of Fox Point sign code. I see from my file that I raised concerns as long ago as 2006 and have recommended updates several times in the intervening years. The Village has faced challenges to the sign code, enforcement has been difficult at times, and in some cases the code simply cannot be enforced. At the same time, State and federal caselaw have continued to complicate this issue, as decisions from around the country and in Wisconsin have further defined the limits of our authority, many times in ways that are inconsistent with the current Village Code.

Recently the Chief Freedy, who is responsible for enforcing the Code, requested that this issue be addressed. I met with the Village Police Chief and the Village Manager to discuss the issues that should be addressed in an update to the Village Code. I was directed to prepare a first draft of the update, and I presented that to the Village Manager. The Village Manager has asked that I present this issue to the Village Board at the upcoming Village Board meeting.

Attached please find the first draft of the update to Chapter 540 that I prepared for the Village to consider. The adoption process for this code amendment begins with your referral to the Plan Commission, who then can review and revise the ordinance as necessary and make its recommendation to the Village Board. The Village Board would then hold a public hearing, and then consider the possible adoption of the ordinance. I recommend that you begin this process by referring the draft ordinance to the Village Plan Commission for report and recommendation, as noted in the agenda.

-- EJJ

STATE OF WISCONSIN

VILLAGE OF FOX POINT

MILWAUKEE COUNTY

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL AND RE-CREATE CHAPTER 540
OF THE VILLAGE OF FOX POINT VILLAGE CODE ENTITLED,
"SIGNS"

WHEREAS, due to the decision of the U.S. Supreme Court in *Reed v. Town of Gilbert*, and other cause, Village Staff have recommended that the Village of Fox Point sign regulations be updated to comply with current laws, regulations and legal interpretations; and

WHEREAS, the matter has been referred to the Village Plan Commission of the Village of Fox Point for report and recommendation; and

WHEREAS, upon due notice as required by Wisconsin Statutes Sections 61.35 and 62.23(7)(d), the Village Board held a public hearing on or about _____, as required by Wisconsin Statutes Sections 61.35 and 62.23(7)(d); and

WHEREAS, the Village Plan Commission of the Village of Fox Point has recommended certain amendments to Chapter 540 of the Village Code; and

WHEREAS, the Village Board finds that this change to the Village Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Village Board of the Village of Fox Point having carefully reviewed the recommendation of the Plan Commission of the Village of Fox Point, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such zoning amendment on the health, safety and welfare of the community, immediate neighborhood in which said uses will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the zoning amendment will not violate the spirit or intent of the Zoning Code for the Village of Fox Point, will not be contrary to the public health, safety or general welfare of the Village of Fox Point, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhoods as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same,

and such revisions are consistent with the recommendations found in the Village of Fox Point comprehensive plan; and

NOW, THEREFORE, the Village Board of the Village of Fox Point, Milwaukee County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 540 of the Village of Fox Point Village Code entitled, "Signs," is hereby repealed and re-created as follows:

Chapter 540. Signs

§ 540-1. Purpose and findings.

- A. The Village is enacting this chapter pursuant to zoning powers of Wisconsin Statutes Sections 61.35 and 62.23 to establish reasonable regulations for the posting of permanent or temporary signs on public and private property. The Village Board finds that signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left completely unregulated, signs can become a threat to public safety as a traffic hazard and detriment to property values and the Village's overall public welfare as an aesthetic nuisance.
- B. By enacting this chapter, the Village Board intends to:
 - (1) Balance the rights of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
 - (2) Further the objectives of any such Village Master Plan as may from time to time be adopted and in effect;
 - (3) Protect the public health, safety, and welfare;
 - (4) Reduce traffic and pedestrian hazards;
 - (5) Protect property values by minimizing the possible adverse effects and visual blight caused by temporary signs;
 - (6) Promote economic development; and
 - (7) Ensure the fair and consistent enforcement of the sign regulations specified herein.

§ 540-2. Definitions.

For purposes of this chapter, the following words have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

~~CONTRACTOR SIGN — Any sign giving the name or names of principal contractors, subcontractors, architects and lending institutions responsible for repair or remodeling on the site of an existing structure where the sign is placed, together with other pertinent information included thereon.~~

~~DEVELOPMENT SIGN — Any sign designed to identify a future residential development or a future nonresidential development or redevelopment project currently under construction.~~

~~DIRECTIONAL AND INSTRUCTIONAL NONELECTRIC SIGN — A sign that provides instruction or direction and does not advertise a business. This includes, without limitation, signs identifying telephones, house numbers, nameplates, no trespassing and warning signs, alarm signs, memorial signs, and rummage sale signs.~~

~~ESTATE SALE SIGN — Any sign advertising or providing information which relates to any sale or liquidation occurring on residential premises wherein personal property of the resident or property owner is held out for public sale with the assistance of a paid, professional, commissioned, or in any other way compensated agent.~~

~~GRAND OPENING SIGN — A sign that calls attention to a new business or announces a change of ownership of a business.~~

~~POLITICAL SIGN — A sign containing a political message.~~

ACTIVELY MARKETED

Actively marketed means (1) proactive measures are being taken to connect and engage with potential customers, which may include listing with a real estate agent, publishing advertisements in a newspaper or other print publications, or engaging in online advertising activities, such as posting on a website; and (2) these actions are repeated, updated, and modified regularly to continue to seek engagement with potential purchasers. The mere fact of placing a sign on a lot does not itself demonstrate that the property is being actively marketed.

FREESTANDING SIGN

A sign placed directly onto the ground or surrounding surface, with a solid sign base that hides from view internal poles, uprights or braces (also known as a monument sign).

GOVERNMENT SIGN

Any sign that is owned, operated, or required by a governmental entity having jurisdiction, including, but not limited to, the signs designated in this Section Chapter 540 as government signs, and signs that are required by applicable laws. Such signs include signs on municipally-owned vehicles, official traffic, fire and police signs, signals, devices, and markings of the State of Wisconsin and the Village or other public authorities, or posted notices required by law.

Commented [BM1]: Each of these definitions relies upon content of the sign. Regulations of signs based upon content is subject to strict scrutiny, based upon the decision in *Reed v. Town of Gilbert*, and we cannot meet the compelling governmental interest and least restrictive tailoring requirements that strict scrutiny would demand. The Sign Ordinance must be restructured to regulate based upon physical features alone, namely dimensions, sign location and the like, without reference to the content of the sign. This is the reason for these first several deletions, and I will not repeat this comment throughout except to say here that most of the deletions that follow are for this same purpose.

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OFF-PREMISE SIGN

A sign not intended to be temporary (see Temporary Sign), and advertising or promoting a use not conducted on the parcel where the sign is located, excluding on-premises signs.

POLE SIGN

A sign supported by uprights or braces placed directly onto the ground or surrounding surface, with the bottom edge of the sign frame 10 feet or more above the surface of the adjoining ground or surface.

POST

To erect, attach, or affix in any manner, including without limitation nailing, tacking, tying, gluing, pasting, painting, staking, marking, or writing.

PUBLIC RIGHT-OF-WAY

The entire width of the highway as defined by Wisconsin Statutes Sections 340.01(22) and 990.01(12), which specifically includes all public ways and thoroughfares and bridges, for the entire width of every way open to the use of the public. ~~The entire area between property boundaries which is owned by a government, dedicated to public use, or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use, and includes without limitation the street, gutter, curb, shoulder, sidewalk, sidewalk area, pathway, parking or parking strip, planting strip, and any public way.~~

~~REAL ESTATE SIGN — A sign indicating the availability for sale, rent, or lease of the specific lot, building, or portion of a building upon which the sign is posted.~~

ROOF SIGN

A sign of a permanent or temporary nature which is constructed on the roof of the building

SIGN

Any writing, pictorial representation, illustration, decoration (including any material used to differentiate sign copy from its background), landscaping form, emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer, spinner, ribbon, sculpture, ~~statue~~, or any other figure or character that is a structure or any part thereof (including the roof or wall of a building) or is written, printed, projected, painted, constructed, or otherwise placed or displayed upon or designed into landscaping or a structure or a board, plate, canopy, awning, marquee, or vehicle, or upon any material object or device whatsoever, and by reason of its form, color, wording, symbol, design, illumination, or motion attracts or is designed to attract attention to the subject thereof or as a means of identification, advertisement, or announcement or political or artistic expression or decoration; ~~but~~ landscaping constitutes a sign only to the extent that it is planted, trimmed, graded, arranged or installed in such a manner as to convey an explicit commercial message.

TEMPORARY SIGN — A sign that:

- A. Is intended for a temporary period of posting on public or private property;

Commented [BM2]: This definition is very broad, perhaps overly broad. It also uses the word "or" 14 times, by my count, with the context of usage leading to possible differing interpretations and ambiguity. I could provide sample definitions on request. One definition you could consider that was developed by IMLA, the International Municipal Lawyers Association, is as follows: "Sign. A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street or abutting property, is not be considered a sign. Each display surface of a sign or sign face is considered to be a sign."

- B. Is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic, and/or wallboard; and
- C. Does not constitute a structure subject to Chapter 756, Building Construction, and Chapter 745, Zoning.

VISION SETBACK AREA

Vision setback lines at the intersection of public streets or highways and of a street or highway with a railroad where the grade is not separated are hereby established as follows:

- A. Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located 120 feet from the intersection of these 2 lines.
- B. Across each sector between intersecting streets or highways, one or more of which has an established width of 100 feet or more, a vision setback line shall be established by a straight line connecting 2 points on the intersecting base setbacks lines, which are located 60 feet from the intersection.
- C. Across each sector between any other intersecting streets, a vision setback line shall be established by a straight line connecting 2 points on the intersecting base setback lines which are located 30 feet from the intersection.

WINDOW SIGN

Any nonelectric sign painted upon or attached to or displayed in a window in such a manner as to permit viewing from the exterior of the building or structure.

§ 540-3. Signs not requiring a permit.

- ~~A. Political signs. Signs containing a political message shall be permitted under the following conditions:~~
 - ~~(1) The display of any such signs shall be limited to a period beginning on the first day for circulation of nomination papers by candidates and ending on the day of the election.~~
 - ~~(2) Political signs shall not exceed six square feet if such size limitation is necessary to ensure traffic or pedestrian safety.~~
 - ~~(3) The candidate, party or parties responsible for the erection or distribution of any such signs shall be jointly and severally liable for the removal of the sign(s) within three days after the primary, general, or special election to which they refer.~~
 - ~~(4) No permit shall be required for such a sign.~~

~~(5) Political signs are not permitted on public property, rights of way, or within 100 feet from a polling place entrance.~~

~~B. Directional and instructional nonelectric signs. Directional and instructional nonelectric signs shall be located entirely on the property to which they pertain and shall not exceed three square feet in area. Rummage sale signs shall not exceed two on premises signs and shall be displayed for no more than 72 hours.~~

A. Temporary Signs without a Permit. Temporary signs, as defined, and as regulated below and in Section 540-6, are allowed without a permit. Temporary signs on any property shall be allowed for a maximum consecutive period of ninety (90) days and a maximum total time of ninety (90) days in any calendar year. The following exceptions to these time limitations apply:

(1) Signs on Property Under Construction. Temporary signs are permitted on any lot in any district for the duration of a building permit, where a building permit is in effect and construction is occurring on such lot.

(2) Signs on Property Marketed for Sale or Lease. Temporary signs may remain on a property for all time that the property is actively marketed, as defined herein, for sale or lease. Whether the property is being actively marketed for sale or lease shall be subject to the determination of the Village Building Inspector. The sign must be removed no later than ten calendar days after the marketing of the property is concluded. The total sign area requirements of the district in which the sign is located shall apply.

(3) Signs on Property Under Development. Temporary signs may remain on a property under some circumstances while the property is under development, subject to the following limitations. A sign permit is required for any such sign. Such sign shall be treated as a permanent sign for purposes of permitting, but shall remain a temporary sign for purposes of removal once the approval expires. Such signs may remain on the lot for one year following the date the sign permit is granted, unless otherwise restricted in the grant of the sign permit. Prior to expiration of the sign permit or any extension thereof, upon request of the owner or developer, the Building Board may extend the sign permit for successive periods of up to one year each, if the Building Board finds the development is actively proceeding and the sign is not otherwise in violation of the standards of this Section. The sign must be removed no later than thirty calendar days following the expiration of the permit unless specified otherwise by the Building Board. The total sign area requirements of the district in which the sign is located shall apply, except as follows: if during the process of development, the property is rezoned, the sign area calculations of the original zoning district shall continue to apply for the duration of the development; and if the property being developed includes multiple contiguous parcels, the calculation of sign area shall include all such contiguous parcels as though they were one parcel.

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(4) Preemption. If a longer time is expressly allowed by Wisconsin Statutes Section 12.04, or other applicable laws, the shortest period required by such law applies.

B. Flags. Any flag, emblem or insignia of a nation, state, county or local governmental unit or school, limited to three (3) flag poles per property, located a minimum of 10 feet from any property line with a flagpole height not exceeding the maximum height restriction for the zoning district on which the flagpole is located. Such flags are deemed to be tantamount to government signs.

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C. Government signs. Nothing in this chapter shall be construed to prevent the erection, construction, alteration, placement, maintenance, or location of government signs, devices and markings of the state, Village or other governmental authority, or the posting of notices required by law.

D. Home office signs. Home occupation and professional home office signs, limited to one (1) per residential zoned property, not exceeding three (3) square feet in sign display area and located mounted flush against the dwelling or on a private light post.

E. Name and warning signs. Name and warning signs which identify premises or describe a hazardous condition which may exist on a premises, not more than three (3) square feet in area and located a minimum of 10 feet from any property line, except if placed on the front façade of a building. Such signs are deemed to be tantamount to government signs.

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F. Property address signs. Property address numbers assigned by the Village or of a design approved by the Building Inspector that are required to be placed on every principal structure or as designated by the Village in clear view from the public right-of-way on which the address is assigned. Such signs are deemed to be tantamount to government signs.

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G. Traffic control signs. Traffic control signs on private property, such as "Stop," "Yield," and similar signs, that serve the same purpose on private property as government signs serve on public property. Traffic control signs include directional signs giving directions to areas such as drive-through or drive-up lanes, visitor or employee parking, or shipping and loading zones. Such signs are deemed to be tantamount to government signs.

A-H. Window signs. Such signs not occupying more than 50% of the window area shall be permitted for not more than 90 days.

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~~B. Religious proclamation signs. Signs proclaiming a religious message, and which do not announce a specific activity, shall be exempt from the provisions of this chapter to the extent such signs communicate a religious message without any adverse impact on public health, welfare or safety, and provided such sign is placed upon the religious institutional grounds.~~

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§ 540-4. Regulation of all other signs.

A. Compliance. No person shall erect or construct any sign, nor add to, enlarge, move, alter, convert or extend any sign not exempt under § 540-3, without first ~~complying with the provisions of this Chapter 540. obtaining a building permit from the Building Inspector.~~

B. Application for Sign Permit. If a permit is required for a sign or if an existing sign requiring a permit is substantially altered, application for a permit shall be made ~~on forms provided by~~ Before the Building Inspector and made available in the Village Clerk's office and shall contain, or have attached thereto the following information:

(1) Name, address, and telephone number of the applicant; location of the building, structure, or lot to which, or upon which, the sign is to be attached or located.

(2) Name of person, firm, corporation or association erecting the sign.

(3) Written consent of the property owner or lessee of the building, structure, or land which, or upon which, the sign is erected, if the applicant is not the property owner or lessee.

(4) A scale drawing (and scale sectional drawing) of such sign indicating the dimensions, the type and color of materials to be used, the type of illumination, if any, and the method of construction and attachment.

(5) A scaled site survey indicating the location and position of such sign in relation to nearby buildings, structures, lot line, vehicular and pedestrian access ways, public and private right-of-way, and existing signs on the parcel or on adjacent parcels within 50 feet. The scaled site survey shall be a maximum 1 inch equals 100 feet or as approved by the Building Inspector.

(6) Copies of any other permits required, and issued, for said sign, such as an electrical permit for an illuminated sign.

(7) Additional information as may be required by the Building Inspector or the Village Building Board.

C. Building Board Action. The Building Inspector shall submit completed applications for sign permits to the Building Board. ~~shall issue a building permit, plans showing all details shall be submitted to him and be referred by him to the Building Board.~~ The Building Board may request such further descriptive detail or engineering detail as it may deem necessary. If the permit application complies with the requirements this Code, the Building Board shall approve the issuance of the permit, and if it does not comply with the requirements of this Code, the permit shall be denied and the reasons for denial shall be stated in writing.The

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Building Board may impose reasonable conditions for approval, including but not limited to limitation on hours of illumination.

D. Permit Issuance. Upon approval of an application for a sign by the Building Board, a permit shall be issued by the Building Inspector.

E. Appeal. Any person aggrieved by a decision of the Building Board may appeal to the Village Board of ~~Appeals Trustees~~ if written notice of appeal is filed with the Village ~~Board Clerk~~ within 45 days of the decision of the Building Board.

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§ 540-5. Consideration in granting permit.

- A. The Building Board shall follow Chapter 19, Article II of the Fox Point Village Code.
- B. Freestanding signs in excess of 15 feet in height above normal grade level to the top of the sign may only be permitted subject to the approval of the Village Board after recommendation of the Building Board.
- C. All signs shall comply with the provisions of Chapter 756, Building Construction, and the National Electrical Code.
- D. All signs shall be constructed to withstand a wind pressure of not less than 30 pounds per square foot of area.

~~E. Signs pertaining to nonresidential buildings shall be in accordance with a uniform sign format with uniform casements. Such uniform sign format shall be submitted by the owner of the nonresidential building to the Building Board and must be approved by the Building Board. Such uniform sign format shall be submitted to the Building Board within 12 months of the effective date of this chapter or before any sign under § 540-4 is approved by the Building Board. In the event that a request for additional or amended signage occurs as to a property subject to PDO zoning and as to which the Village Board has in granting Planned Development Overlay Zoning regulated signage in any way, the Building Board shall conduct its review in the capacity of a recommending body. Any change or addition to signage which is in deviation from a prior approval of the Village Board shall then be reviewed by the Village Board for final approval after recommendation of the Building Board. Review and recommendation by the Building Board as to signage shall be deemed to fulfill the function of the Plan Commission as to amendments in a PDO district. No building permit shall be issued for additions to or changes to signage in the PDO district without the approval of both the Building and Village Boards.~~

~~F.E. Measuring Sign Display. In calculating the sign display area to determine whether it meets the requirements of this section, the Building Inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the sign display area calculation. Sign display area of irregular shaped signs or signs containing~~

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two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

§ 540-6. Uniform sign format.

A. Signs pertaining to nonresidential buildings and properties subject to PDO zoning shall be in accordance with a uniform sign format with uniform casements. Such uniform sign format shall be submitted by the owner of the nonresidential such building to the Building Board and must be approved by is subject to approval of the Building Board. Such uniform sign format shall be submitted to the Building Board within 12 months of the effective date of this chapter or before any sign under § 540-4 is approved by the Building Board. In the event that a request for additional or amended signage occurs as to a property subject to PDO zoning and as to which the Village Board has in granting Planned Development Overlay Zoning regulated signage in any way, the Building Board shall conduct its review in the capacity of a recommending body. Any change or addition to signage which is in deviation from a prior approval of the Village Board shall then be reviewed by the Village Board for final approval after recommendation of the Building Board. Review and recommendation by the Building Board as to signage shall be deemed to fulfill the function of the Plan Commission as to amendments in a PDO district.

Commented [BM3]: Do you really mean to require a uniform sign format for all nonresidential buildings, including institutional buildings, for example? This is an existing requirement, so I have kept it in this draft, but I'm not sure this is truly intended.

B. No building permit shall be issued for additions to or changes to signage in the PDO district without the approval of both the Building Board and Village Boards. Signs approved by the Village Board in conjunction with PDO District Zoning Ordinance shall be regulated as described therein, and also by the regulations of this Chapter 540, and in the event of a conflict between the PDO Zoning Ordinance and this Chapter 540, the PDO Zoning Ordinance shall control. The Village Board may modify the size, location, type of sign and total square footage of signs applicable to a development in a PDO district, pursuant to the procedures and standards of the PDO district approval.

C. Unless approved otherwise by the Village Board in the grant of a PDO zoning designation, the following limitations apply to all signs on property that is not owned or used for residential purposes and property that is zoned PDO Land Development Overlay District:

(1) Freestanding signs and pole signs shall not exceed a maximum height of [redacted] feet above the lot grade at the base of the sign, shall be setback a minimum of [redacted] feet from all lot lines, shall have a gross surface area that does not exceed [redacted] square feet for one side nor [redacted] square feet on all sides, and the gross surface area of such signs shall not exceed [redacted] square feet.

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(2) Wall supported signs shall not extend above the parapet wall or top of the roof of the building which supports it, shall not project more than [redacted] inches from the wall which supports it and shall not exceed [redacted] square feet of sign display area.

(3) One shared frontage sign, which may identify multiple commercial uses on the lot, shall not exceed a height of [REDACTED] feet above the lot grade at the base of the sign, shall be setback a minimum of [REDACTED] feet from all lot lines, shall not exceed [REDACTED] square feet for one side, nor [REDACTED] square feet of sign display area on all sides, and shall allow for sign copy for multiple users of the lot where it is located.

(4) The total sign area on the lot shall not exceed [REDACTED] square feet.

§ 540-76. Temporary signs regulations.

~~A. Permit required. The Village Manager may grant a permit for the erection of a temporary sign of any kind in the Village when he/she has determined that the sign is of a size and type and will be posted in a location that does not pose a safety hazard; that the sign is compatible with other property in the neighborhood and the zoning district in which the sign will be located; and that the sign will not cause substantial depreciation of the property values in the neighborhood. The permit issued shall be written, shall not be for a period exceeding 90 days, shall set forth the date of termination, and shall be subject to the following limitations and restrictions.~~

~~A.B.~~ Temporary sign limitations and restrictions.

- (1) The total square footage for temporary signs posted on a lot in a single-family residential zoning district, or on a lot used for any residential purpose, in the aggregate, shall not exceed 12 square feet, with no individual sign exceeding six square feet. The total square footage for temporary signs posted on a building lot in all other zones, in the aggregate, shall not exceed 30 square feet, with no individual sign exceeding 15 square feet. The total square footage of a sign is measured to include all of the visible display area of one side of the sign.
- (2) No temporary sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.
- (3) A temporary sign shall be designed to be stable under all weather conditions, including high winds.
- (4) No temporary sign shall be illuminated or painted with light reflecting paint.
- (5) A temporary sign shall only be posted with the consent of the property owner or occupant.
- (6) A temporary sign may be posted for a period of up to 90 days, at which time the sign shall be removed or replaced.

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(7) A temporary sign shall not advertise or promote any commercial enterprise or event not conducted on the same lot.

(8) There shall not be more than two temporary signs located on any single lot at any one time.

(9) A temporary sign shall not be located within any public right-of-way. Any Village official shall be allowed to remove any temporary sign located within any public right-of-way without notification of the sign owner.

(10) A temporary sign shall not be located within a vision setback area.

(11) A temporary sign shall be properly maintained to be not torn, tattered and non-readable, at all times.

(12) An illuminated temporary sign may require an electrical permit and shall comply with the outdoor lighting standards of this Code.

B.C. Removal or replacement requirements for temporary signs. In addition to the requirements stated above, temporary signs shall comply with the following requirements:

(1) All commercial temporary signs, including those announcing special events to occur on one or more particular dates, shall be removed within three days of the conclusion of the sale or event that the sign is promoting.

(2) The person who has posted or directed the posting of a temporary sign is responsible for the removal or replacement of that sign in accordance with this chapter.

(3) If that person does not remove or replace the temporary sign in accordance with this chapter, then the property owner or occupant of the building lot where the sign is posted is responsible for the sign's removal or replacement.

(4) The Village Manager, or the Village Manager's designee, is authorized to remove any temporary signs posted in violation of this chapter that are not removed or replaced in accordance with the provisions herein. Temporary signs posted on private property in violation of this chapter shall be deemed a public nuisance, and the Village Manager, or the Village Manager's designee, may abate that nuisance by removing such sign, and any expenses incurred shall be billed to the person who has posted or directed the posting of the temporary sign, or the property owner.

(5) The Village Manager, or the Village Manager's designee, may immediately remove temporary signs posted on public property or rights-of-way in violation of this chapter and, in addition to any other penalties provided herein, may bill the person who has posted or directed the posting of the temporary sign for the cost of removing the sign, or the property owner.

~~C. Real estate signs. Such signs shall be permitted under the following conditions:~~

- ~~(1) One sign pertaining to the sale or lease of real estate shall be permitted on each fronting public street of the property itself. The sign may be one or two sided, shall not be illuminated, and shall not exceed six square feet in area. Said sign(s) shall be removed within 10 days after an offer is accepted.~~
- ~~(2) One residential sign pertaining to internal viewing of real estate, known as "open house," shall be permitted on each fronting public 540-6-540-6 street of the property itself. Two additional such signs shall be permitted in the Village with the consent of those property owners. The signs may be one or two sided, shall not be illuminated or adorned, and shall not exceed six square feet in area. Such signs shall set upon or be staked in the ground. All such signs shall be permitted only on the day(s) of an open house and shall be removed daily.~~
- ~~(3) Permitted sign area for nonresidential sale, lease or rent signs is only as follows:~~
 - ~~(a) Parcels containing less than 10 acres are allowed sign(s) not exceeding 12 square feet in area each.~~
 - ~~(b) Parcels containing 10 acres or more are allowed sign(s) not exceeding 16 square feet in area each.~~
 - ~~(c) The height of each nonresidential sale, lease or rent sign may not exceed five feet.~~

~~D. Development signs. Such signs shall be permitted under the following conditions:~~

- ~~(1) A development project may have one development sign on each street that the development abuts. Each sign must be placed on the property being developed.~~
- ~~(2) No development sign may exceed six feet in height or 15 square feet in area. This sign may be single or double faced and may be perpendicular or parallel to the street.~~
- ~~(3) All development signs shall be removed upon the earlier of:~~
 - ~~(a) The expiration of the permit;~~
 - ~~(b) Ten days after the completion of a nonresidential development; or~~
 - ~~(c) When 90% of the units of a residential development having been sold or rented.~~

~~E. Contractor signs. Such signs shall be permitted under the following conditions:~~

~~(1) Except as otherwise provided herein, contractor signs shall comply with the requirements of Subsection B of this section.~~

~~(2) Contractor signs may not be placed until procurement of any requisite building or remodeling permits or prior to commencement of the project, whichever is earlier.~~

~~(a) Contractor signs must be removed upon the earliest of the following:~~

~~[1] Seven days after the initial occupancy of new premises;~~

~~[2] Completion of the work by the contractor, subcontractor or architect referenced in the sign; or~~

~~[3] Completion of the work financed by the lending institution referenced in the sign.~~

~~(b) Notwithstanding the foregoing provisions of Subsection F(2)(a)[1], [2] or [3], in no event shall a contractor sign be posted longer than 90 days in a residential zoning district, whether or not such days are continuous, as to any given project.~~

~~(3) Not more than one sign shall be allowed on a lot zoned singlefamily residential or on a lot used for residential purposes.~~

~~(4) The contractor shall advise the Village Building Inspector of the intent to post any such sign, and the owner of any residential property shall procure a permit for the posting of such sign, which permit shall be issued by the Building Inspector upon his determination that the sign as intended will not violate the provisions of this subsection, and which permit shall require payment of a fee set in accordance with § 540-9.~~

~~F. Grand opening signs. Such signs shall be permitted under the following conditions:~~

~~(1) Except as otherwise provided herein, grand opening signs shall comply with the requirements of Subsection B of this section.~~

~~(2) Grand opening signs shall not be displayed more than 10 days.~~

~~(3) Only one grand opening sign shall be allowed per business.~~

~~G. Residential family announcement signs. A sign on a residential property may be permitted subject to all other provisions of this section, which sign announces a personal or family event such as a birthday or wedding, and which shall be placed for a period not to exceed 48 hours.~~

~~H. Estate sale signs. Such signs shall be permitted under the following conditions:-~~

- ~~(1) No estate sale signs shall be placed in or upon Village right of way or publicly owned property. Estate sale signs shall be placed only upon private residential property, and then only with the written permission of the owner.~~
- ~~(2) One sign per side of the lot fronting on a street may be permitted on the subject property at which the estate sale is occurring. Not more than two additional signs may be placed upon private property; however, not more than one sign per property, as set forth in Subsection I(1). Such signs shall not exceed six square feet in area per side. In no event shall there be greater than a total of three signs.~~
- ~~(3) Estate sale signs shall be portable and shall not be displayed other than during the hours of sale and in no event earlier than 10:00 a.m. or later than 5:00 p.m.~~
- ~~(4) Signage relating to estate sales other than as defined in § 540-2 shall be treated as temporary signs and subject to the regulations of temporary signage as set forth in the provisions of this chapter. Only one sign fee shall be required for the signage allowed under Subsection I(2) herein.~~

§ 540-87. Fire lane signs and markings.

The Village of Fox Point may establish a system of fire lanes for the purpose of permitting access by the North Shore Fire Department to buildings, improvements and sources of water supply. The Village shall be permitted to erect and post signs and paint lines indicating that parking is prohibited in said fire lanes.

§ 540-9. Sign construction and maintenance standards.

- A. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a work or damaged legal, conforming sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds and grass.
- B. Supporting Members or Braces. Supporting members or braces of all signs shall be constructed of galvanized iron, properly -treated wood, steel, copper, brass, or other non-corrosive, fire resistant material. Every means or device used for attaching any sign shall make use of sound engineering practices.
- C. Sign Placement for Fire Safety. No signs or any part thereof or sign anchors, braces, or guy rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any anchor, brace or guy rod shall be erected, constructed or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Village, as necessity may require.

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D. Sign Placement for Visibility. No sign shall be located within any vision setback area.

E. Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.

§ 540-108. Prohibited signs.

The following types of signs are prohibited in the Village of Fox Point:

- A. All moving, rotating and flashing signs are prohibited except those signs which only give information of time and temperature and which are not closer than 750 feet to another time and/or temperature sign.
- B. All mobile signs including but not limited to signs on wheels, trailers or motor vehicles and parked on a street or property for the purpose of advertising shall be prohibited. This Section is not intended to prohibit signs on operable vehicles primarily intended for transportation purposes, such as signs attached to a bus or lettered on a motor vehicle, nor is this Section intended to prohibit the advertising of personally owned vehicles offered for sale from the private property of the vehicle owner or the owner's immediate family.
- C. All abandoned signs shall be prohibited. An abandoned sign is one which no longer correctly advertises a bona fide business, lessor, lessee, owner, product or activity conducted or product available on the premises where the sign is displayed, or a sign which has not been maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of the sign. The owner shall be responsible for the repair or removal of any sign within 30 days after written notice from the Building Inspector of the abandonment of the sign. If any such sign is not repaired or removed within such time, the Building Inspector shall give the owner written notification to remove said sign within 15 days, after which time the Building Inspector shall be authorized to remove such sign and any expenses incurred shall be billed to the owner. ~~Except as allowed by § 540-3D,~~
- D. ~~No~~ signs shall be allowed in public right-of-way, except government signs.
- E. Off-Premise Signs. An off-premise sign, as defined, is prohibited.
- F. Roof Sign. A roof sign, as defined, is prohibited.
- G. Permanent Signs on Residential Zoned Properties. Any permanent sign or signs on residential zoned properties are prohibited, except signs allowed without a permit as described in Section 540-3.

§ 540-11. Substitution.

Subject to the property owner's consent, noncommercial speech of any type may be substituted for any duly permitted or allowed commercial speech; provided, that the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. This provision prevails over any provision to the contrary in this Code. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a lot or parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted. The term "commercial speech" means any sign, wording, logo, or other representation advertising a business, profession, commodity, goods, services or entertainment for business purposes. The term "noncommercial speech" means any message that is not commercial speech, including, without limitation, messages concerning political, religious, social, ideological, public service, and information topics.

§ 540-~~129~~. Fees.

All sign permits issued under §§ 540-4 ~~and 540-6~~ shall be subject to such fees as from time to time established by the Village Board.

§ 540-~~1340~~. Violations and penalties.

Any person who shall violate, neglect or refuse to comply with the provisions of this chapter shall be subject to the penalties as provided in § 1-4 of the Fox Point Village Code.

§540-14. Existing Nonconforming Signs.

Signs with a valid permit lawfully existing at the time of the adoption or amendment of this Chapter 540, which do not conform with the provisions of this section, may be continued as an existing nonconforming use as regulated by Section 745-4 of this Code.

§540-15. Conflict of laws.

In the event that Wisconsin Statutes Section 12.04 or other applicable laws would permit a sign that is larger than the size limitations described in this Section, such sign, regardless of sign content, is allowed only for the period described in Wisconsin Statutes Section 12.04 or other applicable laws. In the event the requirements of this Chapter 540 are preempted by governmental authorities having jurisdiction, to the extent of the preemption and to no further extent, this ordinance shall not apply.

SECTION 2: CONTINUATION OF EXISTING PROVISIONS.

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new

enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

SECTION 3: SEVERABILITY

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

SECTION 4: EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 2019.

Village of Fox Point

Douglas A. Frazer, Village President

ATTEST:

Kelly A. Meyer, Village Clerk/Treasurer

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VILLAGE OF FOX POINT

MILWAUKEE COUNTY

WISCONSIN

VILLAGE HALL

7200 N. SANTA MONICA BLVD.

FOX POINT WI 53217-3505

414-351-8900

FAX 414-351-8909

To: Fox Point Village Board

From: Scott Botcher, Village Manager *SAB*

Date: September 3, 2019

Re: Building Board

On your agenda is an item related to the Building Board. Staff has candidly struggled with trying to understand a clear and defined function and role of the Building Board and what requirements to place upon applicants so as to meet the sometimes varied wishes of the Building Board, which can sometimes change based upon which three of the nine members are seated at any given meeting.

We would like the Village Board to come to some agreement as to what the function of the Building Board should be so stakeholders, Trustees, citizens, Building Board members and future applicants can all understand the Building Board's mission and what we as staff need to do to facilitate that mission.

Mr. Larson, Michael Pedersen and I have spent time over the last few months trying to define what the role of the Building Board should be given Village Code, State Law, and 1950's litigation involving the Village (State ex rel. Saveland Park Holding Corp. v. Wieland, 269 Wis. 262, 69 N.W.2d 217 (1955)). In this 1955 case, the authority of the Fox Point Building Board was upheld, and the reasoning of the court is instructive. The court focused on a section of the ordinance that remains in the Village Code today with almost identical language (Section 19-9A), which reads:

[No] building permit for any structure for which a building permit is required shall be issued unless it has been found as a fact by the Building Board by at least a majority vote, after an examination of the application papers for a building permit, which shall include exterior elevations of the proposed structure, that the exterior architectural appeal and functional plan of the proposed structure will, when erected, not be so at variance with nor so similar to either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district established by the Village zoning

regulations as to cause a substantial depreciation in the property values of the neighborhood within the applicable district. (Section 19-9 A., Fox Point Village Code).¹

Emphasized in this text, above, are two phrases that the Wisconsin Supreme Court found to be significant. The Building Board permit cannot be issued “unless it has been found as a fact by the Building Board” that the construction will not “cause a substantial depreciation in the property values”. The Wisconsin Supreme Court upheld the ordinance because the focus is on the protection of property values. The Court said:

“While the ordinance does use the term ‘architectural appeal’, a building permit is only authorized to be withheld in those cases where the architectural appeal of the proposed structure is so at variance with that of structures already constructed, or being constructed, ‘as to cause a substantial depreciation in the property values’ in the immediate neighborhood.” State ex rel. Saveland Park Holding Corp. v. Wieland, 269 Wis. 262, 271, 69 N.W.2d 217, 222 (1955).

Because of that focus on substantial depreciation of property values, the Court upheld the ordinance:

“It is our considered judgment that ordinance No. 129 constitutes a valid exercise of the police power of the Village of Fox Point, and its provisions are not so indefinite or ambiguous as to subject applicants for building permits to the uncontrolled arbitrary discretion or caprice of the Building Board.” State ex rel. Saveland Park Holding Corp. v. Wieland, 269 Wis. 262, 276, 69 N.W.2d 217, 224 (1955).

While much more could be said about this case from 1955, the point today is that the Building Board ordinance was upheld because the Court read the ordinance to require permits to be issued unless the construction would cause substantial depreciation of property values. The Court did not give the Village carte blanche authority to deny a request simply based upon aesthetics alone.

An argument can be made that the Building Board today does not always maintain its focus on protection of property values. It is rare in the Building Board’s proceedings that any evidence is presented of any adverse impact on neighboring property values.

There are disparate opinions as to the relative value of a Building Board (or architectural review committee) in any community. There are some communities that have this kind of architectural review that show consistency in quality architecture throughout their community. To the

¹ The 1955 decision quotes the ordinance at that time as saying “No building permit for any structure for which a building permit is required shall be issued **unless it has been found as a fact by the Building Board** by at least a majority vote, after a view of the site of the proposed structure, and an examination of the application papers for a building permit, which shall include exterior elevations of the proposed structure, that the exterior architectural appeal and functional plan of the proposed structure will, when erected, not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district established by Ordinance No. 117 [the general zoning ordinance of the village], or any ordinance amendatory thereof or supplementary thereto, **as to cause a substantial depreciation in the property values** of said neighborhood within said applicable district.” State ex rel. Saveland Park Holding Corp. v. Wieland, 269 Wis. 262, 265, 69 N.W.2d 217, 219 (1955)

contrary, there are communities with architectural review that show the opposite. There are also communities with no architectural review and they reflect quality architecture throughout the community and increasing property values. I will let each of you come to your own conclusion as to the additive value of having such a body.

As the three of us have discussed this issue, if you are inclined to make a change, we see four primary options:

1. Appeal Body. First, given that the code currently states a permit "shall be issued", perhaps the Village Board would wish to have the Building Board act in a fashion similar to that applied in the chicken ordinance and proposed in a draft copy of the beekeeping ordinance; that is, if a permit must be issued absent evidence of adverse impact, there really is no point in meeting unless a person with standing wishes to object to the issuance of the permit based upon the standards the Building Board can apply (economic impact in the neighborhood). In this option, we have discussed some sort of notice provision whereby neighbors within 500 feet of proposed exterior work would be notified. Absent any objections to the application, the permit would be considered approved and thereafter issued. This automatic approval of an application is not without Staff performing its due diligence to ensure all work is done appropriately. If a citizen wishes to object to an application, the Building Board could convene and consider the application and appeal.
2. Refine Procedures. Secondly, submittal requirements could be modified and tailored to the property value protection goal of the ordinance. There are ways to do this.
3. Limit the Scope. Thirdly, we have discussed tightening the scope of review of the Building Board, limiting its authority to new single-family home construction or additions in excess of a certain number of square feet. Things such as new windows, new doors and other related improvements to a home would no longer be in the authority the Building Board.
4. Repeal. Finally, there is always the option that we would no longer have a Building Board and that the architecture review of all non-single-family residential properties will be performed at the plan commission level, and that single-family residential properties in the Village would no longer require architectural review.

We welcome any other thoughts, but we thought it useful to try to distill our conversations into a single memo with a couple options as a starting point. Thank you.

269 Wis. 262

Supreme Court of Wisconsin.

STATE ex rel. SAVELAND PARK
HOLDING CORP., Respondent,

v.

Donald G. WIELAND, Building Inspector
of the Village of Fox Point, Appellant.

March 8, 1955.

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Rehearing Denied May 3, 1955.

Synopsis

Proceeding for a writ of mandamus commanding a village building inspector to issue to relator a permit to erect a residence building on relator's premises in the village. From a judgment of the Circuit Court for Milwaukee County, Leo B. Hanley, J., declaring a village zoning ordinance requiring, before issuance of a building a permit, a finding by the village building board that the exterior architectural appeal and functional plan of the proposed structure will not be so at variance with those of other structures in the immediate neighborhood as to cause substantial depreciation in property values thereof, unconstitutional and void and directing issuance of a peremptory writ, the inspector appealed. The Supreme Court, Currie, J., held that the ordinance constituted a valid exercise of police power and was not so indefinite or ambiguous as to subject applicants for building permits to the building board's uncontrolled arbitrary discretion or caprice.

Judgment reversed and cause remanded with directions.

****218 *264** Petition on relation of Saveland Park Holding Corporation (hereinafter referred to as the 'relator') for a writ of mandamus to command the defendant Donald G. Wieland, as building inspector of the village of Fox Point, to issue the relator a building permit to erect a residence building on its premises in said village.

An alternative writ of mandamus was issued and the return of the defendant thereto based his refusal to issue the permit upon village zoning ordinance No. 129, which requires, as a condition precedent to the issuing of a building permit, the Building Board of the village to make a finding that the exterior architectural appeal and

functional plan of the proposed structure will not be so at variance with those of other structures already constructed, or in the course of construction, as to cause a substantial depreciation in the property values of the neighborhood.

A trial was had to the court upon the petition and the return thereto. Under date of October 11, 1954, judgment was entered adjudging that said ordinance No. 129 is unconstitutional and void, which judgment directed that a peremptory writ of mandamus be issued commanding the defendant to issue a building permit to relator. From such judgment the defendant building inspector has appealed.

Attorneys and Law Firms

Fraley N. Weidner, Village Atty., Milwaukee, for appellant.

David V. Jennings, Jr., Milwaukee, for respondent.

Opinion

CURRIE, Justice.

The sole issue on this appeal is the constitutionality of ordinance No. 129 of the village of Fox Point, adopted by the village board of said village on July 23, 1946.

****219** Sec. 1 of such ordinance provides as follows:

***265** "No building permit for any structure for which a building permit is required shall be issued unless it has been found as a fact by the Building Board by at least a majority vote, after a view of the site of the proposed structure, and an examination of the application papers for a building permit, which shall include exterior elevations of the proposed structure, that the exterior architectural appeal and functional plan of the proposed structure will, when erected, not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district established by Ordinance No. 117

[the general zoning ordinance of the village], or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation in the property values of said neighborhood within said applicable district.]

Subsequent sections of the ordinance provide that the Building Board shall consist of three residents of the village, two of whom shall be architects, and provide a method of appeal from the decision of the Building Board to the Board of Appeals of the village.

On this appeal it is conceded that relator's application for a building permit disclosed compliance with all provisions of the general zoning ordinance of the village, and the sole reason why the defendant building inspector refused to grant the permit was the failure of the Building Board to make the necessary finding prescribed by sec. 1 of ordinance No. 129 as a prerequisite to the issuance of the permit.

The village of Fox Point was incorporated in 1926. It consists of approximately two and one-half square miles, and the entire area has been zoned for residential use only. There is, however, a small business district and a relatively small institutional district permitting churches, lodges, and municipal buildings, but the vast majority of the territory in the village is devoted to residence purposes. The village has developed into a highly desirable residential village, almost entirely built up of single family residences.

***266** The learned trial court held the ordinance unconstitutional on the following three grounds: (1) that the preservation of property values is not by itself a proper objective for the exercise of the police power in enacting a zoning ordinance; (2) that the ordinance essentially is concerned with aesthetics which also is not a proper basis for exercise of the police power; and (3) that the standards prescribed in the ordinance for governing the action and decision of the Building Board are so indefinite as to subject applicants for building permits to the unlimited and arbitrary discretion of such board.

At the outset we deem it advisable to consider the basis in constitutional law for upholding the validity of zoning ordinances, which, by their very nature, do impose restrictions upon the use of private property. We quote

from the able opinion by Mr. Justice Owen in *State ex rel. Carter v. Harper*, 1923, 182 Wis. 148, 151, 153, 196 N.W. 451, 452, 33 A.L.R. 269, as follows:

'The Constitution of this state (section 13, art. 1) provides that the property of no person shall be taken for public use without just compensation therefor, and the Fourteenth Amendment of the federal Constitution provides that no person shall be deprived of his property without due process of law. These provisions are intended to secure the enjoyment of most substantial and fundamental rights, and the allegation that one is being deprived of his property without just compensation or without due process of law calls for most serious consideration. *It has long been settled, however, that these constitutional provisions interpose no barrier to the exercise of the police power of the state.* Thus it was said in ****220** *State ex rel. Kellogg v. Currens*, 111 Wis. 431, 435, 87 N.W. 561, 562 (56 L.R.A. 252), speaking of constitutional limitations upon legislative power:

"These limitations, however, according to all the authorities, state and federal, are to be read as not extending so far as to deprive the states of their power to so control the conduct of individuals as to protect the welfare of the community—a power commonly described as the 'police power'." * * *

***267** * * * As the interest of society justifies restraints upon individual conduct, so also does it justify restraints upon the use to which property may be devoted. It was not intended by these constitutional provisions to so far protect the individual in the use of his property as to enable him to use it to the detriment of society. By thus protecting individual rights, society did not part with the power to protect itself or to promote its general well-being. *Where the interest of the individual conflicts with the interest of society, such individual interest is subordinated to the general welfare.* If in the prosecution of governmental functions it becomes necessary to take private property, compensation must be made. *But incidental damages to property resulting from governmental activities, or laws passed in the promotion of the public welfare, are not considered a taking of the property for which compensation must be made.*' (Emphasis supplied.)

Keeping in mind the foregoing principles, is the objective of an ordinance in the nature of a zoning regulation, which seeks to protect or preserve property values, embraced

within the term 'general welfare'? It is the contention of counsel for relator that it is not, because such an ordinance does not tend to promote public health, safety, or morals. We consider this as entirely too restrictive an interpretation of the term 'general welfare'. As pointed out by the New York court of appeals in *Wulfsohn v. Burden*, 1925, 241 N.Y. 288, 150 N.E. 120, 122, 43 A.L.R. 651:

'The [police] power is not limited to regulations designed to promote public health, public morals, or public safety, or to the suppression of what is offensive, disorderly, or unsanitary, but extends to so dealing with conditions which exist as to bring out of them the greatest welfare of the people by promoting public convenience or general prosperity.'

In the recent case of *State ex rel. Wis. Lutheran H. S. Conference v. Sinar*, 1954, 267 Wis. 91, 95, 65 N.W.2d 43, 46, this court upheld the constitutionality of a zoning ordinance of the city of Wauwatosa which excluded *268 private schools other than private elementary schools from class 'A' residence districts, and stated:

'We have recognized that the term 'general welfare' includes considerations of public convenience, and general prosperity. * * * The presence of the school *will lessen the taxable value of nearby homes* and will deter the building of new homes in the area.' (Emphasis supplied.)

However, other considerations in addition to the protection of property values were also stressed in our opinion in *State ex rel. Lutheran H. S. Conference v. Sinar*, supra, to establish that the zoning restriction therein upheld did promote the 'general welfare'. Cases from other jurisdictions holding that preservation of property values are the legitimate objective of zoning ordinances is: *Wulfsohn v. Burden*, supra; *State ex rel. Beery v. Houghton*, 1925, 164 Minn. 146, 204 N.W. 569, 54 A.L.R. 1012, affirmed 273 U.S. 671, 47 S.Ct. 474, 71 L.Ed. 832; *Rice v. Van Vranken*, 1928, 132 Misc. 82, 229 N.Y.S. 32, affirmed 225 App.Div. 179, 232 N.Y.S. 506; *Lionshead Lake, Inc. v. Wayne Township*, 1952, 10 N.J. 165, 89 A.2d 693, 698, appeal dismissed January 19, 1953 for want of

substantial federal question 344 U.S. 919, 73 S.Ct. 386, 97 L.Ed. 708.

****221** The New Jersey court, in an opinion by Mr. Chief Justice Vanderbilt, in the recent case of *Fischer v. Bedminster Township*, 1952, 11 N.J. 194, 93 A.2d 378, 384, upheld the validity of a zoning ordinance in a rural community restricting lot sizes to a minimum of five acres each, and declared:

'* * * there would appear to be ample justification for the ordinance in preserving the character of the community, *maintaining the value of property therein* and devoting the land throughout the township for its most appropriate use.' (Emphasis supplied.)

In the earlier New Jersey case of *Griggs v. City of Paterson*, 1944, 132 N.J.L. 145, 39 A.2d 231, 232, it was stated:

***269** 'The proper purpose of zoning is 'Conserving the value of property and encouraging the most appropriate use of the land.' *Gabrielson v. Glen Ridge*, 176 A. 676, 679, 13 N.J.Misc. 142.'

Mr. Edward D. Landels contributed an article entitled 'Zoning: An Analysis of its Purposes and its Legal Sanctions' in 17 *American Bar Association Journal* 163. The author of such article was a prominent member of the Oakland, California, bar, who had served as special counsel for the city of Oakland in zoning cases, and was a member of the American City Planning Institute, Legal Division. Such article contains the following pertinent statement (p. 165):

'On analysis the primary objects of zoning are found to be, not so much the protection of public health and safety, as the protection of the value and usefulness of urban land, and the assurance of such orderliness in municipal growth as will facilitate the execution of the city plan and the economical provision of public services.

'Zoning results chiefly from an appreciation of the 'interdependence of adjoining parcels of land' in urban centers; from a realization that the value and usefulness of each parcel, not only to the owner but to the community, is vitally affected by the use made of the adjoining parcel. It is predicated upon a basic principle of urban land economics, that a certain conformity in use stabilizes and insures the value of land.'

While the great weight of authority holds that the police power may be validly exercised in the enactment of zoning ordinances having at least as one of their objectives the preservation of property values, the Michigan court in *Elizabeth Lake Estates v. Waterford Township*, 1947, 317 Mich. 359, 26 N.W.2d 788, 792, held that 'the conservation of property values is not by itself made a proper sole objective for the exercise of police power', in passing upon a Michigan statute authorizing townships to adopt zoning ordinances 'to promote public sanitation, health, *270 safety and general welfare' even though such statute also specified that 'reasonable consideration' should be given, among things, to 'conservation of property values'.

We consider it significant that the Michigan court in the *Elizabeth Lake Estates* Case cited no authority other than its own decisions in support of its conclusion. The particular ordinance invalidated provided a minimum of cubic feet contents and square feet of floor area for new dwellings to be constructed in the zoned area, and the court pointed out that this, in reality, had the effect of prohibiting houses being erected costing below a certain sum. The court, therefore, could have grounded its decision on the narrower ground that the ordinance had no reasonable relationship to the objective of conserving property values, instead of holding such objective improper. In the instant case it is not urged that the ordinance before us had the indirect effect of requiring homes to be erected in the village to have a minimum cost, nor do we believe such objection could be validly raised against such ordinance. The *Elizabeth Lake Estates* Case decision is directly contrary to the well reasoned opinion of Mr. Chief Justice Vanderbilt of the New Jersey supreme court rendered in **222 *Lionshead Lake, Inc., v. Wayne Township*, supra, upholding a township zoning ordinance requiring homes to have a minimum square footage of floor space.

We have no difficulty in arriving at the conclusion that the protection of property values is an objective which falls within the exercise of the police power to promote the 'general welfare', and that it is immaterial whether the zoning ordinance is grounded solely upon such objective or that such purpose is but one of several legitimate objectives. Anything that tends to destroy property values of the inhabitants of the village necessarily adversely affects the prosperity, and therefore the general welfare, of the entire village. Just because, in the particular case now before us, property values in a limited area only

of the village are at stake does not mean that such threatened depreciation of property values does not *271 affect the general welfare of the village as a whole. If relator is permitted to erect a dwelling house on its land of such nature as to substantially depreciate the value of surrounding property, there is danger that this same thing may be repeated elsewhere within the village, thus threatening property values throughout the village.

The learned trial court held that the objective of the ordinance is grounded largely upon aesthetic considerations, which are insufficient to justify the exercise of the police power. While the ordinance does use the term '*architectural appeal*', a building permit is only authorized to be withheld in those cases where the architectural appeal of the proposed structure is so at variance with that of structures already constructed, or being constructed, 'as to cause a substantial depreciation in the property values' in the immediate neighborhood. This court pointed out in *Jefferson County v. Timmel*, 1952, 261 Wis. 39, 61, 51 N.W.2d 518, that while the general rule is that the zoning power may not be exercised for purely aesthetic considerations, such rule was undergoing development. In view of the latest word spoken on the subject by the United States supreme court in *Berman v. Parker*, 1954, 348 U.S. 26, 75 S.Ct. 98, 99 L.Ed. 27, this development of the law has proceeded to the point that renders it extremely doubtful that such prior rule is any longer the law.

In *Berman v. Parker* the United States supreme court had before it the question of the constitutionality of an Act of Congress providing for slum clearance in the District of Columbia under which appellants' property was included within the boundaries of the district to be condemned for slum clearance purposes, although it was used for store purposes and in no sense constituted slum housing. Appellants urged that the act, insofar as it permitted its property to be taken for such purpose, could not be justified under the police power, but was in violation of the 'due process' clause *272 of the Fifth amendment. The court in a unanimous opinion by Mr. Justice Douglas declared, 75 S.Ct. at pages 102, 103:

'The concept of the public welfare is broad and inclusive. See *Day-Brite Lighting, Inc. v. State of Missouri*, 342 U.S. 421, 424, 72 S.Ct. 405, 407, 96 L.Ed. 469. The values it represents are spiritual as well as physical, *aesthetic as well as monetary*. It is within the power of the legislature to determine that the community should be beautiful as well

as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. In the present case, the Congress and its authorized agencies have made determinations that take into account a wide variety of values. It is not for us to reappraise them. *If those who govern the District of Columbia decide that the Nation's capital should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way.*' (Emphasis supplied.)

While the court in *Berman v. Parker*, supra, was dealing with the 'due process' clause of the Fifth amendment, which restricts the power of Congress, and it is the 'due process' clause of the Fourteenth amendment which is applicable to state action, **223 we consider such distinction to be immaterial in considering the scope of the police power and its exercise to promote the general welfare.

We now come to the last issue presented, viz., whether the standards set by ordinance No. 129 for governing the functioning of the Building Board of the village are so indefinite as to subject applicants for building permits to the arbitrary discretion of such board. It will be recalled that the ordinance specifically provides for an appeal from the decision of the Building Board to the village Board of Appeals, and, of course, timely court review by certiorari will always lie from the decision of the Board of Appeals.

In order for a building permit to be refused under the ordinance the Building Board must find, as a fact, that the exterior architectural appeal and the proposed plan of structure when erected shall not be so at variance with those of structures *273 already constructed, or in the course of construction, 'in the immediate neighborhood' * * * 'as to cause a substantial depreciation in the property values of said neighborhood'. The two words of the ordinance which have been singled out as being most objectionable from the standpoint of indefiniteness are 'neighborhood' and 'substantial'.

While several cases are cited in which courts have been called upon to define the term 'neighborhood' we consider the decision of the Iowa court in *Youtzy v. Cedar Rapids*, 1911, 150 Iowa 53, 129 N.W. 351, as being the most helpful. That case involved the taking of land by condemnation, and complaint was made by the appellant land owner that witnesses had been permitted to testify as to sale prices of lands which were so far removed as to not be located in the neighborhood of the property being condemned. The Iowa court, in its opinion, conceded that

property to be used by way of comparison or illustration 'should be in the same neighborhood or so nearly similar to the one in question that knowledge of the former, and of its value, will afford some degree of aid to the intelligent and fair-minded juror in estimating the value of the latter'. It then proceeded to define 'neighborhood', and stated:

'The term 'neighborhood' is one of quite indefinite meaning, and it may well be that in some cases the trial court will permit the inquiry to take a wider territorial range than it could allow in others. Certainly this court cannot attempt to fix a standard of measurement, and say as a matter of law that the similar property concerning which inquiry may be made is such only as may be found within a given number of feet, yards, or blocks of the property condemned. Counsel for appellant argues, in effect, that, as the word has been used in cases of this class, 'neighborhood' has reference only to adjoining property, but we think this cannot be. The reasonable proposition is that the trial court is vested with discretion to draw the line in each case as shall seem just *274 under all the circumstances developed by the testimony, and that, unless abuse of such discretion is shown, its ruling will not be held reversible error.'

While the court in *Youtzy v. Cedar Rapids*, supra, was defining the term 'neighborhood' as used in a rule of the common law, instead of a statute or ordinance, we consider the foregoing quotation equally applicable to its use in the instant case in ordinance No. 129. Clearly 'neighborhood', as used in the ordinance, does extend further than adjoining property and may vary according to existing conditions. For example, in a section of the village where the average building lot comprises several acres, the limits of the neighborhood might well be held to extend farther than in the case of an area in the village where building lots average less than an acre each in area.

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Although it is impossible for this court in this decision to establish, in terms of measurement of feet, the radius of the largest permissible area which would qualify **224 as a neighborhood under the ordinance, there is undoubtedly in each case a point beyond which a court could hold, as a matter of law, that certain property was not in the same neighborhood as applicant's property, and that it would be an abuse of discretion if the Building Board determined otherwise. In case of a court review some effect necessarily would have to be accorded the adjective 'immediate' preceding the word 'neighborhood' where the latter first appears in the ordinance.

Just because some discretion is necessarily accorded the board to determine the limits of a neighborhood, as applied to a particular applicant's property, does not render the ordinance void. *City of Milwaukee v. Ruplinger*, 1914, 155 Wis. 391, 145 N.W. 42, and *Pinkerton v. Buech*, 1921, 173 Wis. 433, 181 N.W. 125. In the first mentioned of said two cases, this court upheld an ordinance of the plaintiff city which prohibited anyone from carrying on a junk shop in *275 the city without a license, and further provided [155 Wis. 391, 145 N.W. 43] "all applications for license under this ordinance shall be made to the mayor who may grant or refuse to grant such license as to him may seem best for the good order of the city". The court held the ordinance granting to the mayor the power to grant or refuse licenses "as to him may seem best for the good order of the city" set a sufficiently definite standard, and held the ordinance constitutional. In the *Pinkerton* Case the constitutionality of a statute providing for the licensing of private detectives was upheld which required the approval of the application by the fire and police commission of the city and a finding by the secretary of state that the applicant was 'of good character, competency and integrity.'

Turning now to the word 'substantial' which has also been attacked by relator as being too indefinite, we find that the Washington supreme court in *In re Krause's Estate*, 1933, 173 Wash. 1, 21 P.2d 268, 270, held that the term 'substantially' was not so indefinite as to render a contract employing it to be unenforceable. The particular contract provided "neither party shall have the right to make a

new will as to property which has pursuant hereto been *substantially* benefited by the other party", with respect to which the court stated:

"Substantial' as an adjective means something worthwhile as distinguished from something without value, or merely nominal.'

This court is frequently required to apply the wording of section 227.20(1)(d), Stats., 'unsupported by substantial evidence in view of the entire record', in cases involving review of determinations by administrative agencies under our uniform Administrative Procedure Act. We do not recall of any litigant ever having raised the question that the word 'substantial' therein rendered such quoted portion of the statute indefinite and void.

*276 Determining whether or not a proposed structure will 'substantially' depreciate property values in the area is simply the reverse of the common question that must be answered in the assessing of benefits resulting from a public improvement in levying a special assessment against the benefited property. There the question must be determined whether or not the public improvement benefits property, and if so what property and to what extent.

It is our considered judgment that ordinance No. 129 constitutes a valid exercise of the police power of the village of Fox Point, and its provisions are not so indefinite or ambiguous as to subject applicants for building permits to the uncontrolled arbitrary discretion or caprice of the Building Board.

Judgment reversed and cause remanded with directions to quash the proceedings.

All Citations

269 Wis. 262, 69 N.W.2d 217