



## ORDINANCE 2020-06

### AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, SPECIFICALLY CHAPTER 207 (NUISANCES)

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**Purpose:** The purpose of this Ordinance is to amend the current code regarding the nuisances to address such issues as property inspection, abatement costs, and unmanned aircraft, among others.

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The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

**Section 1:** Section 207 (Nuisances) of the Code of the Village of Hobart, is hereby amended to read as follows:

#### Article I (General Nuisances)

§ 207-1 Findings and Purpose. The Village of Hobart board finds that any premises that has generated three or more calls for service, fire calls, building inspection, health department, or any combination of, for nuisance activities or has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the village is a nuisance property. The village board therefore directs the chief of police, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at the premises at which nuisance activity chronically occur.

§ 207-2 Public nuisances prohibited. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Hobart.

#### § 207-3 Nuisances defined.

A. Public nuisances. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure, or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.
- (5) Nuisance activity. Any of the following activities, behaviors, or conduct occurring on a premise:
  - (a) An act of harassment, as defined in § 947.013, Wis. Stats.
  - (b) Disorderly conduct, as defined in § 947.01, Wis. Stats.
  - (c) Battery, substantial battery or aggravated battery, as defined in § 940.19, Wis. Stats.
  - (d) Lewd and lascivious behavior, as defined in § 944.20, Wis. Stats.

- (e) Prostitution offenses, as defined in § 944.30 or § 944.34, Wis. States.
- (f) Littering, as defined in Section 9-10, Hobart Municipal Code.
- (g) Theft, as defined in 943.20, Wis. Stats.
- (h) Receiving stolen property, as defined in § 943.34, Wis. Stats.
- (i) Arson, as defined in § 943.02, Wis. Stats.
- (j) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in ch. 961, Wis. Stats.
- (k) Gambling, as defined in § 945.02, Wis. Stats.
- (l) Animal violations, as defined in Chapter 4, Hobart Municipal Code.
- (m) Trespass to land, as defined as §§ 943.13 and 943.14, Wis. Stats.
- (n) Weapons violations as defined in section 9-02, Hobart Municipal Code.
- (o) Noise violations as defined in section 9-06, Hobart Municipal Code.
- (p) Violation of curfew for minors, as defined in section 9-15, Hobart Municipal Code.
- (q) Loitering, as defined in sections 9-07 and 9-15, Hobart Municipal Code.
- (r) Truancy, as defined in section 9-29, Hobart Municipal Code.
- (s) Alcohol violations, as defined in Chapter 3, Hobart Municipal Code and § 125.07, Wis. Stats.
- (t) Obstructing or resisting an officer as defined in § 946.61, Wis. Stats.
- (u) Misuse of emergency telephone numbers, as defined 941.35 Wis. Stats.
- (v) Any act of being party to a crime, as defined in § 939.05, Wis. Stats., any of the activities in paragraphs a.-l., above
- (w) Any conspiracy to commit, as defined in § 939.31, Wis. Stats., or attempt to commit, as defined in § 939.32, Wis. Stats., any of the activities in paragraphs a.-m., above.
- (x) The execution of arrest or search warrants at a particular location.
- (y) Village of Hobart inspection-related calls where any public safety department responds.
- (z) Village of Hobart building inspection related calls where any public safety department responds or any building inspection department response.
- (aa) Brown County Health Officer related calls where any public safety department responds or any health department responds.

B. Public nuisances affecting health. The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of Subsection A of this section.

- (1) All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin breed.
- (4) All stagnant water in which mosquitoes, flies, or other insects can multiply.
- (5) Garbage cans which are not fly tight.
- (6) All noxious weeds and other rank growth of vegetation.
- (7) All animals running at large.
- (8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (9) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes, refuse, garbage, or other substances.

(10) Any use of property, substances, or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, or stench extremely repulsive to the physical senses of ordinary persons, which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.

(11) All abandoned wells not securely covered or secured from public use.

(12) Any obstruction in or across any watercourse, drainage ditch or swale.

(13) The deposit of garbage, refuse, or any offensive substance on any public or private property except as may be permitted by ordinance.

C. Public nuisances offending morals and decency. The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Subsection A of this section.

(1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or restored for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) All gambling devices, gambling tables and slot machines.

(3) All places where intoxicating liquor or fermented malt beverages are sold, brewed, bottled, manufactured or rectified without a permit or license as provided by the Village.

(4) Any place or premises where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly, and intentionally violated.

(5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or the ordinances of the Village.

D. Public nuisances affecting peace and safety. The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of Subsection A of this section.

(1) All ice not removed from the public sidewalks and all snow not removed from public sidewalks within 24 hours after it has ceased to fall thereon.

(2) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.

(3) All buildings erected, repaired or altered within the fire limits of the Village in violation of the provisions of the ordinances of the Village relating to materials and manner or construction of buildings and structures within said district.

(4) All unauthorized signs, signals, markings, or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of the public highway or railway crossing.

(5) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(6) All limbs of trees which project over a public sidewalk, less than eight feet above the surface thereof or less than 14 feet over the surface of a public street.[1]

(7) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.

(8) All buildings or structures so old, dilapidated or out of repair so as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

(9) All wires over streets, alleys or public grounds which are strung less than 18 feet above the surface of the street or ground.

(10) All loud, discordant and unnecessary noises or vibrations of any kind tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and the continuing of the same cannot be prevented and is necessary for the protection and preservation of the health, safety, life or limb of some person.

(a) No person occupying or having charge of any building or premises shall cause, suffer or allow any loud, excessive or unusual noise in the operation or use of any radio, or other mechanical or electrical sound-making or -reproducing device or machine which loud, excessive or unusual noise shall disturb the comfort, quiet, or repose of persons therein or in the vicinity.

(b) No person shall use or operate in any public street or place or in front of or outside of any building, place or premises or in or through any window, doorway or opening of any building adjacent to any public street or place any device, apparatus, or instrument for the amplification of the human voice or sound or noise or other sound making or sound reproducing device. No person shall make for the purpose of advertising any immoderate or excessive use of the voice of any bell, gong, horn, instrument, article or device.

(c) No person operating or having charge of or occupying any building or premises shall keep or allow to be kept any animal or bird which shall habitually by any noise disturb the peace and quiet of any person in the vicinity thereof.

(d) No person shall park or leave standing for more than 15 minutes in any street in the Village a vehicle containing livestock, live fowl, or other living animals.

(e) Nothing in this section shall apply to the use of loud speaking or amplifying systems as follows:

[1] By a school when used in connection with an educational, athletic, entertaining or recreational purpose.

[2] By a church when used in connection with an educational, religious or recreational activity.

[3] Within a public park of the Village subject to the rules and regulations of the Village Board.

[4] The using of loud speaking or amplifying systems after registering with the Police Department as follows:

[a] An amplifying system may be used on the public streets of the Village between the hours of 9:00 a.m. and 9:00 p.m., provided such use does not interfere or annoy any religious, educational or recreational gathering and is not audible to the human ear for the distance of more than 300 feet. The use shall at all times be under the jurisdiction of the Police Department who are hereby given the authority to restrain the use if, in their opinion, the same is a public nuisance or a public annoyance.

[b] An amplifying system may be used in front of or outside a building between the hours of 9:00 a.m. and 9:00 p.m., provided that the same is not audible to the human ear at a distance of 100 feet. If the use becomes a public nuisance to disturb the peace and quiet of any persons, the use shall be discontinued.

- (11) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (12) The obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.
- (13) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (14) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which cannot be opened by pushing from the inside by a small child.
- (15) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (16) Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (17) Any structure, material or condition which constitutes a fire hazard or will impair extinguishing of any fire.
- (18) Any and all excavations, including basements, which have been abandoned or for which a building permit has become null and void, or which permit has been revoked by the Zoning Administrator/Building Inspector.
- (19) Any nuisance so defined by the Wisconsin Statutes.
- (20) Unmanned Aircraft Systems (UAS). Using a UAS to damage or destroy property, using a UAS in a careless or reckless manner, using a UAS in a hazardous manner near other aircraft, using a UAS in violation of FAA airspace regulations, using a UAS in violation of FAA flight restrictions or temporary flight restrictions, using a UAS in violation of FAA temporary flight restrictions in the proximity of the president, other parties, or sporting events, using a UAS to cause a public disturbance or creating a risk to persons by; making unreasonable noise, creating a hazard or nuisance.

#### E. Smoke.

- (1) Dense smoke. The emission of dense smoke from the smokestack of any engine or from the smokestack or chimney of any building within the Village is hereby declared to be a public nuisance and is prohibited.
- (2) Stationary engine. The owner, lessee, or occupant of any building, or the fireman, engineer, or any other person having charge or control of any furnace or stationary engine who shall cause, permit, or allow dense smoke to issue or to be emitted from the smokestack or chimney connected with any such furnace or stationary engine within the Village shall be guilty of creating a public nuisance and of violating the provisions of this section.
- (3) All soot prohibited. The emission of soot, cinders, or coal dust from any chimney, stack, furnace, or from any building within the Village is hereby declared to be a public nuisance and is prohibited.

#### F. Storage of junk.

- (1) No person shall store on any property in the Village, any junk, debris or condition, including, but not limited to: unlicensed and/or inoperable vehicles, vehicle parts, machinery, machinery implements, or machinery parts, refrigerators, furnaces, washing machines, stoves, water heaters, wood, bricks, concrete blocks, other building materials, upholstered furniture, mattresses, bedsprings or other furniture not intended for exterior use by the manufacturer and used or stored on open porches or in yards, household garbage or refuse not properly contained or stored, or other

unsightly debris or unsightly conditions which may tend to depreciate property values in the area or create a nuisance, hazard or eyesore except in an enclosed building which houses such property from public view, or upon permit issued by the Village, or as may be allowed as an approved use by Chapter 295, Zoning. See § 207-3, Storage of junk regulated.

(2) Lots in residentially developed areas shall be kept free, by the owner, occupant, or person authorized to use same, of dirt piles, rubble, grass piles, leaf piles, and any other material or conditions which might hinder maintenance of the property, except as provided by the following:

(a) Dirt piles and materials used for landscaping the lot shall be leveled, used within 30 days of the date of delivery of the dirt.

(b) Dirt piles in commercially and industrially zoned areas shall be removed within one year of the date of deposit on the property, completion of site development or expiration of a Village building permit.

(c) Dirt piles and materials used for landscaping used in conjunction with properly zoned landscaping businesses or contractor's yards are permitted.

(d) Compost piles shall be allowed if they meet all of the following requirements:

[1] Located in the rear yard as defined by Chapter 295, Zoning.

[2] Located at least 10 feet from property lines, except for properties zoned A1 or A2 where the compost pile is not abutting a residentially zoned property.

[3] Confined in a bin meeting generally acceptable composting principles.

[4] Managed and maintained odor-free.

[5] Does not contain meat or other animal products.

[6] Kept free of vermin.

[7] Does not pose or create any nuisance condition.

(3) A violation of this section is declared a public nuisance.

G. Unkempt buildings. The exterior of every structure or accessory structure, residential and nonresidential, including fences, shall be maintained by the owner, occupant or person authorized to use same, in good repair and all exterior surfaces thereof shall be kept painted or covered with exterior siding materials intended for that use by the manufacturer for purposes of preservation and appearance. The same shall be maintained by the owner, occupant or persons authorized to use same, free of broken or missing siding, shingles or exterior woodwork crumbling stone or brick, excessive chipped, peeling or lack of paint, missing, broken or deteriorating steps, porches, handrails and guardrails or any other conditions reflective of deterioration and/or inadequate maintenance or as may tend to depreciate property values in the area or create a nuisance or hazard.

H. Weed cutting and lawn care.

(1) Definitions. As used in this section, the following terms shall have the meanings indicated:

DEVELOPED LOT: A lot with a finished residential use, commercial use, institutional use or industrial use building or building under construction.

NOXIOUS WEEDS: As defined in Wisconsin Statutes § 66.0407, which is hereby adopted and made a part of this article, and shall also include common ragweed (*Ambrosia artemisiifolia*), giant ragweed (*Ambrosia trifida*) and burdock (*Actrium spp.*).

UNDEVELOPED LOTS: Any lot not meeting the developed lot definition located within a platted subdivision or Certified Survey Map.

(2) Owner's responsibility.

(a) The owner of every parcel of land within the Village shall destroy or cause to be destroyed all noxious weeds on every parcel of land which he/she owns, occupies or controls.

(b) The owner of every parcel of land within the Village shall cut or cause to be cut all grass, weeds and similar vegetative growth in excess of eight inches in length/height for developed lots and 12 inches in length/height for undeveloped lots, including the public right-of-way adjoining said land, except as follows:

[1] Lands zoned A-1 or A-2 where the property contains a permitted principal use other than or in addition to a dwelling. For the purposes of this exception, the yard around any dwelling on such land is required to comply with the landscape maintenance provisions of Subsection H (3).

[2] Lands, used principally for farming, agricultural, cultivation, harvesting operations including, but not limited to, crops or livestock. For the purposes of this exception, the yard around any dwelling on such lands is required to comply with the landscape maintenance provisions of Subsection H (3).

[3] Appropriately maintained natural landscaping as provided in Subsection H(3)(b).

[4] Wooded areas or tree lines where the distance between trees effectively prevents mowing.

[5] Hilly areas with severe slopes that would prevent safe mowing.

[6] Lands located in a designated floodplain and/or wetland area.

[7] Properties owned by governmental entities or where federal, state or local regulations provide otherwise.

[8] Property or land areas with unusually unique terrain or circumstances as determined by Village personnel.

(3) Landscape maintenance.

(a) Purpose.

[1] The use of woodlands, prairies, wildflowers, natural grasses and other native plants in a managed landscape design can be economical, low-maintenance and effective in soil and water conservation. However, it is not the intent of this section to allow vegetated areas to be completely unmanaged or overgrown.

[2] Areas that present either a direct health hazard or provide a demonstrated breeding ground for fauna known to create a safety or health hazard will not be permitted. Certain noxious weeds defined in this section are recognized indicators of neglect. The Village recognizes the desirability of permitting natural vegetation within the Village limits while maintaining public health and safety at the same time.

(b) Managed and natural landscaping.

[1] Native and naturalized plants including, but not necessarily limited to, ferns, wildflowers, grasses, shrubs and trees may be grown in a managed landscape design or in naturally maintained conditions such as prairies, wooded areas, wetlands provided said plants were not obtained, or are not growing, in violation of any local, state or federal laws.

[2] Nuisance weeds and noxious weeds as identified in this article are prohibited in all cases and shall be subject to abatement.

[3] Managed and natural landscape areas shall not be allowed to interfere with traffic vision.

(c) Yard neglect.

[1] The front, side and rear yards of a residence, commercial, institutional or industrial use, shall be maintained with a lawn, shrubbery, plantings or other surface treatment consistent with this section for an area equal to the property's zoning district minimum setback requirements, except as provided in Subsection H(2)(b).

[2] Rank or unmanaged growth of vegetation identified in state or local codes is not permitted and is declared to be a public nuisance.

(4) Noxious weeds and uncut growth; public nuisance; abatement by the Village. All noxious weeds and uncut vegetative growth as outlined in this article is hereby declared to be a public nuisance and may be abated by the Village at its option if the owner fails to comply with this article. In addition to any other penalty provided in this article, the costs thereof, together with an administrative charge applied to the bill, imposed each time the growth is abated shall be charged against the property as a special tax.

§ 207-4. Storage of junk regulated.

A. Restricted. No person shall store junked or discarded property, including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood, except in an enclosure which screens such property from public view or upon permit issued by the Village Board.

B. Order for compliance. The Zoning Administrator/Building Inspector may require by written order any premises in violation of this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

C. Motor vehicle and trailer salvage storage.

(1) Planning and Zoning Commission to establish rules. The Planning and Zoning Commission shall enact such rules and regulations including, but not limited to, provisions for fencing, distance from highways, etc., for the regulation of the dismantling, accumulation or storage of junked or inoperable motor vehicles and trailers or parts thereof outside of any building as deemed necessary for the public health, safety and welfare. Rules and regulations so enacted shall, after ratification by the Village Board and publication in the official newspaper, become a part of this section by reference as though fully incorporated herein.

(2) Permit required. No person shall accumulate or store any junked or inoperable motor vehicles or trailers or parts thereof outside of any building on any real estate within the Village unless a permit is obtained from the Village Clerk-Treasurer for such use. The Village Clerk-Treasurer shall not issue a permit unless the application is approved by the Zoning Administrator/Building Inspector and a fee of \$100 is paid to the Village Clerk-Treasurer. All permits shall expire on the 31st day of December of each year and shall be renewed. A renewal application may be denied for violation of this section, and if approval is denied, the Zoning Administrator/Building Inspector shall state the reasons for disapproval on the application. The Village Clerk-Treasurer shall notify the applicant of disapproval and the applicant shall be given an opportunity to be heard before the Village Board.

(3) Conformance with rules and regulations of Planning and Zoning Commission. The Zoning Administrator/Building Inspector shall not approve an application for a permit to accumulate or store junked or inoperable motor vehicles and trailers or parts

thereof unless the premises conforms to the rules and regulations of the Planning and Zoning Commission as follows:

(a) All material not stored within a building shall be enclosed by a solid fence.

[1] The fence shall be of chain link fabric of No. 9 gauge wire or heavier, galvanized or aluminum-coated steel; such fence to have an open mesh no larger than three inches and be equal to "U.S. Cyclone" or "Sentry Fence" standards and with slats inserted in the fence which are impervious to sight.

[2] The fence shall be kept in good state of repair and painted in uniform color.

[3] The fence shall not be less than six feet in height and of uniform height and material. If materials stored exceed six feet, such material shall be screened by natural objects or plantings.

[4] The fence shall not be less than 25 feet from the street, curb or road edge.

(b) No material shall rest upon the fence.

(c) There shall be no signs, bulletins and posters posted on the fence.

(d) All properties with such materials in existence on the date of enactment of these rules and regulations shall conform to these requirements within 90 days.

(4) Enforcement. The rules and regulations governing the storage of junked or inoperable motor vehicles and trailers or parts thereto shall be enforced by the Zoning Administrator/Building Inspector.

(5) Defined. "Motor vehicle" and "trailer" as used herein shall mean any automobile, truck trailer, semitrailer, tractor, motor bus or any self-propelled or motor-driven vehicle.

(6) Authority to retain. Any business engaged in automotive sales or repair may retain disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open, on private property, for a period not to exceed 30 days, after which such vehicles must be removed.

(7) No semitrailer or van box may be used for storage within the Village without first securing a permit from the Zoning Administrator/Building Inspector. The Zoning Administrator/Building Inspector may issue a permit not to exceed six months for temporary use for a semitrailer as storage if he feels it would not be unsightly nor diminish the quality of the neighborhood. In the event that the storage is on a construction site, the Zoning Administrator/Building Inspector may grant an extension if he thinks it is warranted.

#### § 207-5. Open cisterns, wells, basements or other dangerous excavations prohibited.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person and any cover shall be of such design, size and weight that the same cannot be removed by small children.

#### § 207-6. Abandoned or unattended refrigerators prohibited.

No person shall leave or permit to remain outside any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or other container having an airtight door or lid, snap lock or other locking device which may not be released from the inside unless such door or lid, snap lock or other locking device has been removed from such icebox, refrigerator or container or unless such container is

displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

§ 207-7. Abatement of public nuisances.

A. Inspection of premises. Whenever a complaint is made that a public nuisance exists within the Village, the Chief of Police, Zoning Administrator/Building Inspector or other authorized Village employee shall inspect or cause to be inspected the premises and shall make a written report of his/her findings to the Village Administrator.

B. Entry into or onto site: While a declaration of public nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site or on the site property without prior written consent of the building inspector or as otherwise authorized by this section. To confirm compliance with this section and to execute their duties under this section, law enforcement officers, the building inspector, and any persons designated by the building inspector, may enter onto the site property or enter into the site at any time while the declaration of a public nuisance is in effect for the site.

C. Removal of personal property: Consent to remove personal property shall only be granted at the reasonable discretion of the building inspector, and only in cases of hardship. Property owner agrees in writing that they are aware that the possibility exists that the property or personal property may be unsafe and or contaminated. That cleaning may or may not render the property safe, and the owner releases and agrees to indemnify the village, its staff, and the village board from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have caused by the contaminated property.

D. Summary abatement.

(1) Notice to owner. If the inspecting officer shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village Administrator or designee may direct the appropriate personnel to serve notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting, or maintaining such nuisance and to post a copy of the notice on the premises. Such notice shall direct the owner, occupant, or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same.

(2) Abatement by Village. If the nuisance is not abated within the time provided, or if the owner, occupant or person causing the nuisance cannot be found, the Village Administrator shall direct the abatement or removal of such nuisance.

E. Abatement by court action. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village Administrator, who may cause an action to abate such nuisance to be commenced per Chapter 823 of the Wisconsin Statutes.

F. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.

§ 207-8. Cost of abatement.

In addition to any other penalty imposed by this Code for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, or shall be assessed against the real estate. Cost Recovery means those costs for service incurred by the village in connection with a response to any public safety or fire incident, including, but not limited to, the actual labor and material costs of the village (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of all materials, costs of transportation, costs of material disposal and costs of contracted labor) whether or not the services are provided by the village or by a third party on behalf of the village. Service charges and interest; attorney fees, litigation costs and any costs, charges, fines or penalties to the village imposed by any court or state or federal governmental entities.

A. Wherever this article imposes the cost of abatement as a special charge against the premises, the Village elects not to be subject to the administrative review provisions contained within Chapter 68 of the Wisconsin Statutes, and establishes the following as a complete and final review procedure: As a condition precedent to challenging any special charge, the owner of the premises must timely pay the charge in full under protest to the Village. An appeal shall be to the Village Administrator and can be undertaken only by filing a written appeal with the Village Clerk-Treasurer concurrent with the date of payment. The written appeal shall specify all grounds for challenge to the amount of the special charge and shall state the amount of charge that the appellant considers to be appropriate. Failure to timely and properly appeal shall deprive the Village Administrator of jurisdiction to hear the appeal.

(1) The Village Administrator shall have 60 calendar days to consider an appeal under this subsection. In considering an appeal, the Village Administrator shall determine whether the charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The Village Administrator shall conduct a formal or informal hearing at such time and place as designated in a hearing notice to the appellant, providing five business days' notice to the appellant. The Village Administrator shall obtain sufficient facts upon which to make a determination. The decision shall be based upon the evidence presented. The Village Administrator shall notify the appellant in writing of the determination by first class mail addressed to the individual and at the address listed within the appeal. Service is conclusive upon mailing.

(2) The decision of the Village Administrator is final except if the owner of the premises appeals the decision to a court of competent jurisdiction. Such appeal shall be filed no later than 30 calendar days after the date of mailing the decision of the Village Administrator. Such appeal shall be by writ of certiorari and the reviewing court shall be limited solely to the record created before the Village Administrator. Costs, but not attorney fees, shall be awarded to the prevailing party, at the sole discretion of the court. Failure to timely and properly appeal shall deprive the court of jurisdiction to hear the appeal.

#### § 207-9. Violations and penalties.

The penalty for violation of any provision of this article shall be as provided in § 1-3. Each day of continuing violation shall constitute a separate offense.

#### Article II. Offensive Industries

#### § 207-10. Abatement or removal.

Any business considered to be nauseous or offensive is declared to be a public nuisance and an action for the abatement or removal thereof or to obtain an injunction to prevent the same may be authorized to be brought and maintained by the Village Board.

§ 207-11. Violations and penalties.

Any business considered to be nauseous or offensive shall be deemed unlawful, and any person, firm, or corporation may, at the discretion of the court, upon conviction, be subject to the penalties provided in § 1-3. Each day that a violation continues to exist shall constitute a separate offense.

§ 207-12. Exception.

All farm operations are to be excluded from this article.

**Section 2:** Any Ordinance or parts thereof, inconsistent herewith are hereby repealed.

**Section 3:** This Ordinance shall be published as required by law after passage by the Village Board.

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Richard Heidel, Village President

Attest:

\_\_\_\_\_  
Aaron Kramer, Village Administrator

\*\*\*

I, Mary Smith, am the duly qualified and acting Village Clerk of the Village of Hobart, Brown County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on \_\_\_\_\_, 2020.

(Seal)

\_\_\_\_\_  
Mary Smith, Village  
Clerk

## ORDINANCE 2020-05

### AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, SPECIFICALLY SECTION 16 (OPERATOR'S LICENSE OF CHAPTER 189 (INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES)

\* \* \*

**Purpose:** The purpose of this Ordinance is to amend the current code regarding the issuance of operators' licenses, in accordance with 2019 Wisconsin Act 166, which allows a municipal governing body to delegate authority to issue operator's licenses (commonly referred to as "bartender's licenses") to a designated municipal official.

\* \* \*

The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

**Section 1:** Section 16 (Operator's License) of Chapter 189, Intoxicating Liquor and Fermented Malt Beverages, of the Code of the Village of Hobart, is hereby amended to read as follows:

§ 189-16. Operator's license.

A. The Clerk-Treasurer, or the Deputy Clerk in the Clerk-Treasurer's absence, may issue a license known as an "operator's license," which shall be granted pursuant to the Village's discretion and upon application in writing filed with the Village Clerk-Treasurer. An operator's license may be issued only to natural persons who:

- (1) Do not have an arrest or conviction record, subject to §§ 111.321, 111.322 and 111.335, Wisconsin Statutes, which are incorporated by reference herein, said statutes in part describing prohibited bases of discrimination of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, arrest record or conviction record;
- (2) Have been a resident of this state continuously for at least 90 days prior to the date of application;
- (3) Have attained the age of 18 years by the time of issuance;
- (4) Have not been a habitual law offender or convicted of a felony, unless the person has been duly pardoned; and
- (5) Have completed a responsible beverage server training course. Persons are exempt from the training course requirement if they renew an existing operator's license.

B. For all premises operating under a Class "A" and Class "B" license for fermented malt beverages and "Class A" and "Class B" for intoxicating liquor, a licensee, or some other person who has an operator's license and is responsible for the acts of all persons serving any fermented malt beverages or intoxicating liquor to customers, shall be present at all times while such premises are open for business. For purposes of this subsection, any member of the licensee's immediate family who has attained the legal drinking age shall be considered the holder of an operator's license. No person, including underage members of the licensee's immediate family, other than the licensee, may serve fermented malt beverages or

intoxicating liquors in any premises operated under a Class "A," Class "B," "Class A," or "Class B" unless he or she has an operator's license, or is at least 18 years of age and is under the immediate supervision of the licensee or a person holding an operator's license and who is on the premises at the time of the service.[1]

[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

C. The fee for an operator's license is outlined in § 189-6 of this chapter.

D. The Clerk-Treasurer, or the Deputy Clerk in the Clerk-Treasurer's absence, may issue a temporary or provisional operator's license which shall be granted upon application in writing filed with the Village Clerk-Treasurer. A temporary or provisional operator's license may be issued only to natural persons who have applied for an operator's license under this section of the Code and who meet the requirements of Subsection A(1) through (5) of this section.

E. A temporary or provisional operator's license may not be issued to any person who has been denied a license under this article of the Code by the the Clerk-Treasurer, or the Deputy Clerk in the Clerk-Treasurer's absence.

F. The fee for a temporary or provisional operator's license is outlined in § 189-6 of this Code.

G. A temporary operator's license may only be issued pursuant to Chapter 125 of the Wisconsin Code, which includes issuance only to operators employed by or donating their services to nonprofit corporations. A temporary operator's license shall be valid for any period from one day to 14 days.

H. A provisional operator's licenses may only be issued pursuant to Chapter 125 of the Wisconsin Statutes. A provisional operator's license will expire 60 days after its issuance, or when an operator's license under this section is issued to the holder, whichever is sooner.

I. A temporary or provisional operator's license may be revoked by the Clerk-Treasurer if the application of the license holder contains any false statements. The Clerk-Treasurer may issue the temporary or provisional license before receipt of the applicant's record check but shall immediately revoke the temporary or provisional license if the record check indicates the applicant has failed to meet any of the requirements under this section of the article.

J. Any violation of the terms of the article, or any of the laws of the State of Wisconsin applicable to the sale of Fermented Malt Beverages and Intoxicating Liquors, by any person holding any type of operator's license shall be cause for revocation of said license.

**Section 2:** Any Ordinance or parts thereof, inconsistent herewith are hereby repealed.

**Section 3:** This Ordinance shall be published as required by law after passage by the Village Board.

Passed and approved this 17<sup>th</sup> day of March, 2020.

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Richard Heidel, Village President

Attest:

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Aaron Kramer, Village Administrator

\*\*\*

I, Mary Smith, am the duly qualified and acting Village Clerk of the Village of Hobart, Brown County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on March 17<sup>th</sup> 2020.

(Seal)

---

Mary Smith, Village  
Clerk



**TO: Planning & Zoning Commission**

**RE: Conditional Use Permit for increase in square footage of accessory building, HB-1491-F-11, 4629 Clear View Ln.**

**FROM: Todd Gerbers, Director of Planning and Code Compliance**

**DATE: March 11, 2020**

**ISSUE:** Consider Conditional Use Permit, HB-1491-F-11, 4629 Clear View Ln. – 2,283 square foot accessory building on property

**RECOMMENDATION:** Staff recommends approval.

**GENERAL INFORMATION**

1. Applicant(s): Kevin Wilke
2. Parcel: HB-1491-F-11
3. Present Zoning: R-2: Residential District.

**ANALYSIS:**

The Conditional Use Permit verbiage for such accessory buildings reads as follows:

*Accessory structures and fences which do not conform to the requirements identified elsewhere in this chapter, but which are designed, constructed and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity or use and will not change the essential character of the same area.*

The applicable detached accessory building regulation reads as follows:

*May be the greater of 864 square feet or 1/60<sup>th</sup> the lot square footage, but shall not exceed 2,500 square feet.*

*Detached accessory buildings located closer to a street right-of-way than the rear plane of the principal structure shall not exceed the lesser of 864 square feet or the maximum allowed accessory building square footage as described in Subsection **D(1)(b)***

**BACKGROUND**

The current property owner Kevin Wilke is proposing to construct a detached accessory building of 2,283 square feet on his property. The current lot size of 111,557.16 square feet would allow up to 1,859 square feet of accessory building (1/60<sup>th</sup> of the lot square footage) by ordinance and with the layout of the existing dwelling with attached garage, locating an accessory building on this property with connections to the existing driveway is quite challenging. In reviewing the attached site plan with aerial photo, you will notice that the existing dwelling is not facing the public roadway, but instead is facing the side property line to the north and the garage is closer to the street than the dwelling itself. This request would consist of a Conditional Use Permit as the new accessory building would not conform to the requirements identified in the zoning code. The two conditions that would require the CUP would be the request for an increase in maximum total accessory building square footage to 2,283 (424 square feet greater than the maximum noted in the ordinance) and the placement of the proposed building being closer to the street right-of-way than the rear plane of the principal structure exceeding the 864 square foot limit.

Village Staff discussed multiple options with the property owner such as enlarging the existing attached garage, but they are limited to no more than 50% of the total footprint of the garage and dwelling combined. This would severely limit the size the addition could be and that would not be practical. Secondly we discussed moving the proposed building elsewhere on the property, however, with the layout of the existing dwelling uniquely placed on the lot, front facing the side property line, the driveway to access the new accessory building would need to be extended past the front door to the building in the rear yard. Although the driveway extension could be achieved, the new accessory building would appear to be out in the middle of the yard and would probably be more visible than if it were located closer to the existing attached garage.

Therefore, the property owner is requesting review of a Conditional Use Permit to increase the size of the proposed building and allowing the increased building square footage to be located closer to the street than allowed by ordinance. The proposed building would meet the required setback of 40 feet from the front property line, it would just be placed in front of the existing garage and closer to the front property line than the rear plane of the existing principal structure. The property owner would be willing to planting some arborvitaes along the side of the new accessory building similar to what is currently along the side of the existing garage to help minimize the view of the new structure.

Attached is their conceptual site plan and draft Conditional Use Permit.

### **RECOMMENDATION/CONDITIONS**

After extensive consideration, Staff cannot support the request as submitted regarding the total square footage up to 2,283 on an approximately 2.5 acre parcel but would support the increased building being located closer to the street than the rear plane of the principal structure. Staff would recommend that any approval be contingent upon the following:

1. Planting of a minimum of 8 new arborvitaes a minimum of 6 feet in height along the side of the new detached accessory building facing Clear View Ln.
2. All four building elevations of the new structure are constructed of materials similar to those on the existing residential dwelling on the property
3. Vehicles that may be stored on site shall be limited to those that are customary and incidental to a single-family residence
4. No exterior storing of vehicles, trailers, or other similar vehicles or equipment except for properly licensed and operable passenger vehicles
5. Detached accessory building shall only be one story with a walk-up attic, not permitted to have a finished second floor/level

<input type="checkbox"/>	Rezoning Review
<input checked="" type="checkbox"/>	Conditional Use Permit Review
<input type="checkbox"/>	Planned Development Review
<input type="checkbox"/>	CSM/Plat Review

Village of Hobart  
Dept of Neighborhood Services  
2990 S Pine Tree Rd  
Hobart WI 54155  
Phone: (920) 869-3809  
Fax (920) 869-2048

**APPLICANT INFORMATION**

Petitioner: Kevin Wilke Date: 2/24/2020  
 Petitioner's Address: 4629 Clear View Lane City: Oneida State: WI Zip: 54155  
 Telephone #: (920) 362-2375 Fax: ( ) \_\_\_\_\_ Other Contact # or Email: kwilke427@aol.com  
 Status of Petitioner (Please Check):  Owner  Representative  Tenant  Prospective Buyer  
 Petitioner's Signature (required): *Kevin Wilke* Date: 2-24-20

**OWNER INFORMATION**

Owner(s): Kevin Wilke Date: 2/24/2020  
 Owner(s) Address: 4629 Clear View Lane City: Oneida State: WI Zip: 54155  
 Telephone #: (920) 362-2375 Fax: ( ) \_\_\_\_\_ Other Contact # or Email: kwilke427@aol.com  
 Ownership Status (Please Check):  Individual  Trust  Partnership  Corporation

**Property Owner Consent: (required)**

By signature hereon, I/We acknowledge that Village officials and/or employees may, in the performance of their functions, enter upon the property to inspect or gather other information necessary to process this application. I also understand that all meeting dates are tentative and may be postponed by the Neighborhood Services Department for incomplete submissions or other administrative reasons.

Property Owner's Signature: *Kevin Wilke* Date: 2-24-20

**SITE INFORMATION**

Address/Location of Proposed Project: 4629 Clear View Lane, Oneida, WI 54155 Parcel No. 11  
 Proposed Project Type: Accessory Building  
 Current Use of Property: Residential Zoning: Residential  
 Land Uses Surrounding Site:  
 North: Residential  
 South: Residential  
 East: Residential  
 West: Residential

**\*\*Please note that a meeting notice will be mailed to all abutting property owners regarding your request prior to any Public Hearing.**

- Application fees are due at time of submittal. Make check payable to Village of Hobart.
- Please refer to the fee schedule for appropriate fee. FEE IS NON-REFUNDABLE

**CONDITIONAL USE PERMIT / PLANNED DEVELOPMENT APPLICATIONS**

Briefly explain how the proposed conditional use/development plan will not have a negative effect on the issues below.

**1. Health, safety, and general welfare of occupants of surrounding lands.**

The accessory building will not emit any pollutants. Likewise, it will not result in noise emissions. No type of mechanical work will be carried out inside or outside the structure. No flying debris will originate from it. The building is simply meant for storage.

**2. Pedestrian and vehicular circulation and safety.**

No increased foot or vehicular traffic will be created. The structure will be treated like my current garage. It is not for business or commercial purposes in any way.

**3. Noise, air, water, or other forms of environmental pollution.**

No additional forms of environmental pollution will result from this building. It will not create any byproducts or waste of any sort.

**4. The demand for and availability of public services and facilities.**

The only power use that will be incurred is that of electricity to power the lights occasionally and gas heat to keep the interior at a nominal temperature somewhat above freezing. A small sink and toilet may be considered for occasional use but the amount of water used will be minimal and will come from my well.

**5. Character and future development of the area.**

The building will be sided and roofed to match my current residence and will be designed architecturally with a fascia that mimics it as well. All elements of the structure will esthetically flow seamlessly with my house and existing garage. This building will be positioned parallel to my existing garage and will be separated from it by slightly more than the minimum requirement. The back of the building will be tucked up against the woods on my property. It will not be near any neighboring structures.

2-24-20

Dear Planning and Zoning Commission Members and Village Board Members,

I am requesting your consideration for a Conditional Use Permit. The proposed project is an accessory building on my current 2.561 acre lot, located at 4629 Clear View Lane.

My residential property will continue to be used as residential property. None of it will be intended for commercial use of any sort. The accessory building will fulfill two purposes. On the back end of it a safe room will be constructed. This will serve as shelter for my family in the case of intrusion into my house by unauthorized individuals, and it will provide a reinforced area of safety in the event of severe weather, much like we had last summer when a small tornado touched down in the neighborhood. A vault door will ensure the security needed. This room will also allow for storage of my irreplaceable antiques that were given to me by my parents, as it will be constructed to be fire resistant. The size of the safe room is dictated by the amount of square footage required to store these items. Various other items will also be protected inside, such as important documents, hard drives containing family photos and videos, and keepsakes.

The second purpose of the building is to provide a place to store my collection of vintage cars, motorcycles, and tractors, several of which harken back to my youth. Aside from the occasional waxing and detailing, no other service will be performed on the vehicles, since the building won't be used for mechanical work (and the cars are not in need of restoration). Based on the number and sizes of vehicles, a certain amount of square footage is necessary for storage.

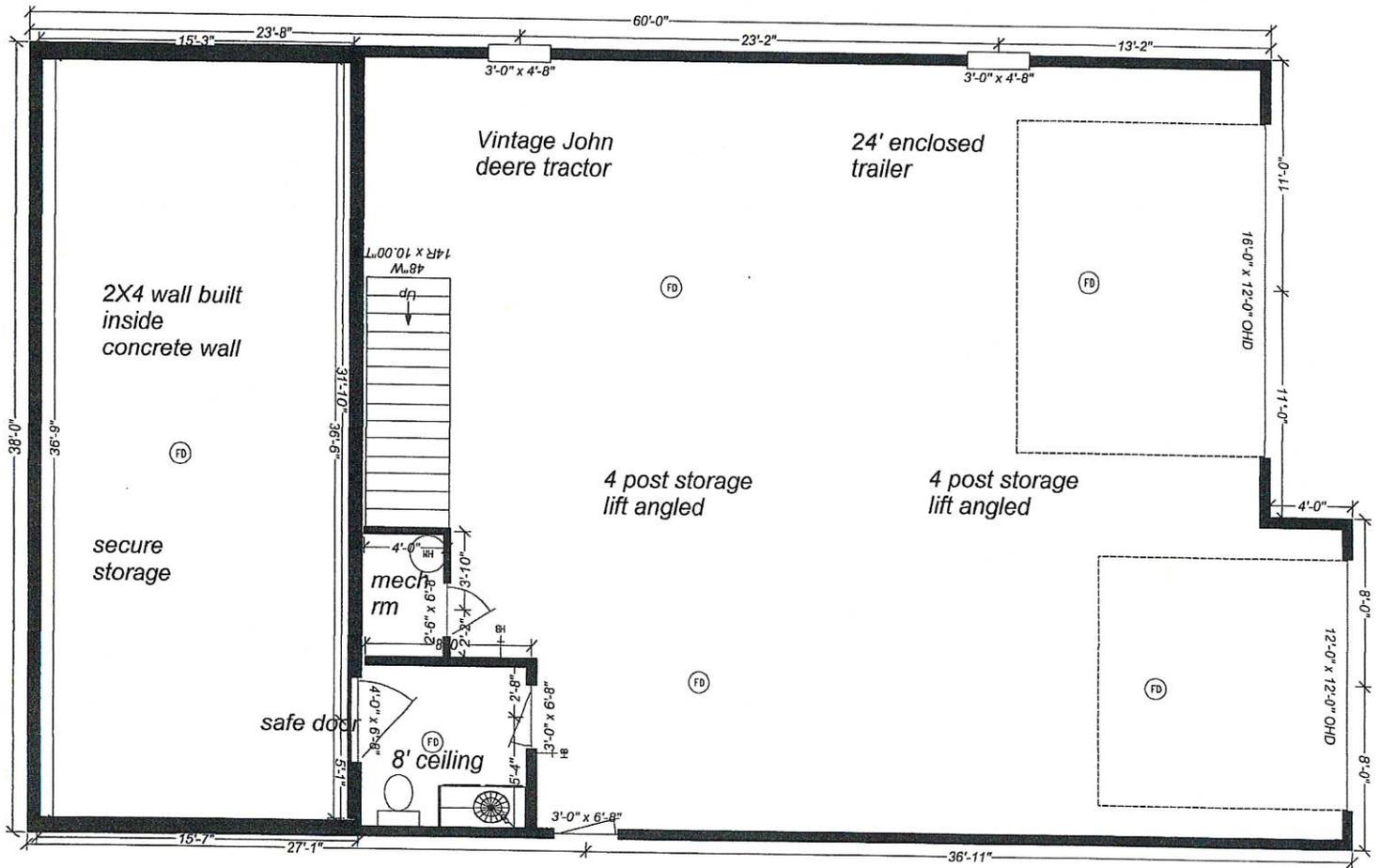
Approximately 2283 square feet is the minimum size I calculated in order to provide the necessary space in which to store the contents of this building. This accessory building will be located parallel to my existing garage and will not encroach upon the setback from the roads and will not exceed the allowable overall height. The approach to it will link up with my existing driveway. It will also be tucked up against the woods and will not be near any structures on neighboring properties. None of the neighbors' views or sightlines will be impacted in any way. The structure will be constructed of the same vinyl siding and roofing material as my current residence, and the style will be the same (Victorian). In short, the building will blend in seamlessly.

I kindly ask that you consider my request to increase the size of my accessory building from 1859 square feet to the proposed 2283 square feet.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin Wilke". The signature is written in a cursive, flowing style.

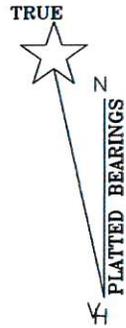
Kevin Wilke



**Wilke Man cave**

- footing w/4' foundation wall  
secure storage walls increase  
to 13'
- 14' sidewall  
hgt, approx 5' above  
secure storage
- cathedral trusses  
8/12 out, 4/12 in  
in main area
- vinyl siding, vinyl scalp  
siding on front gables  
match existing home
- 2X6 ext walls  
w/7/16 osb  
house wrap &  
vinyl siding
- storage above  
bathroom &  
secure  
storage
- entire interior  
plaster including  
inside of secure  
storage
- non-functional  
roof copala  
match existing  
home
- 2283 sq ft

# PLAT OF SURVEY



SCALE 1" = 80'

Existing 1"IP 0.17' East of R/W

305' Rad  
85.18' R  
85.57 Meas

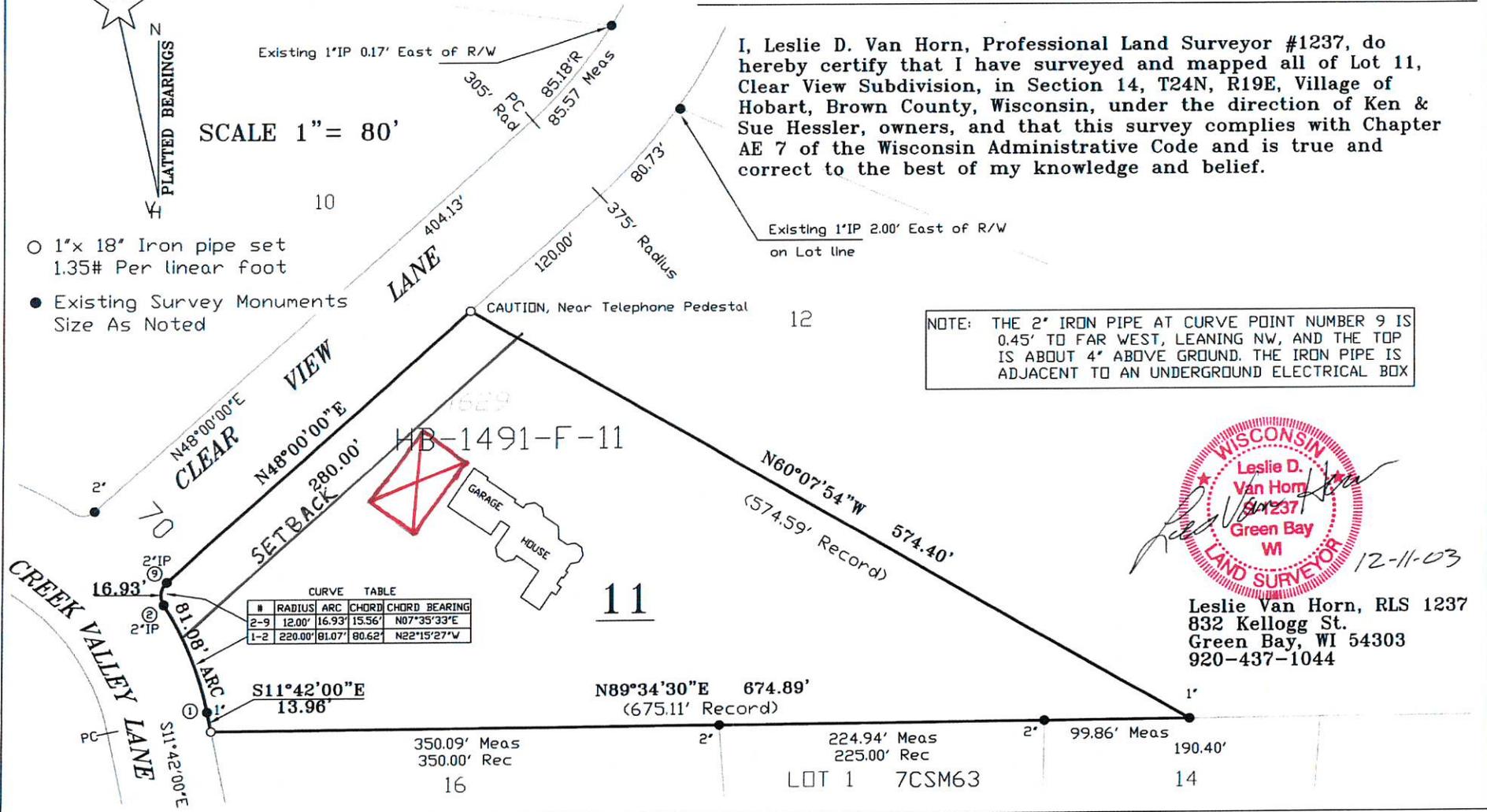
I, Leslie D. Van Horn, Professional Land Surveyor #1237, do hereby certify that I have surveyed and mapped all of Lot 11, Clear View Subdivision, in Section 14, T24N, R19E, Village of Hobart, Brown County, Wisconsin, under the direction of Ken & Sue Hessler, owners, and that this survey complies with Chapter AE 7 of the Wisconsin Administrative Code and is true and correct to the best of my knowledge and belief.

Existing 1"IP 2.00' East of R/W  
on Lot line

○ 1"x 18" Iron pipe set  
1.35# Per linear foot

● Existing Survey Monuments  
Size As Noted

NOTE: THE 2" IRON PIPE AT CURVE POINT NUMBER 9 IS 0.45' TO FAR WEST, LEANING NW, AND THE TOP IS ABOUT 4" ABOVE GROUND. THE IRON PIPE IS ADJACENT TO AN UNDERGROUND ELECTRICAL BOX



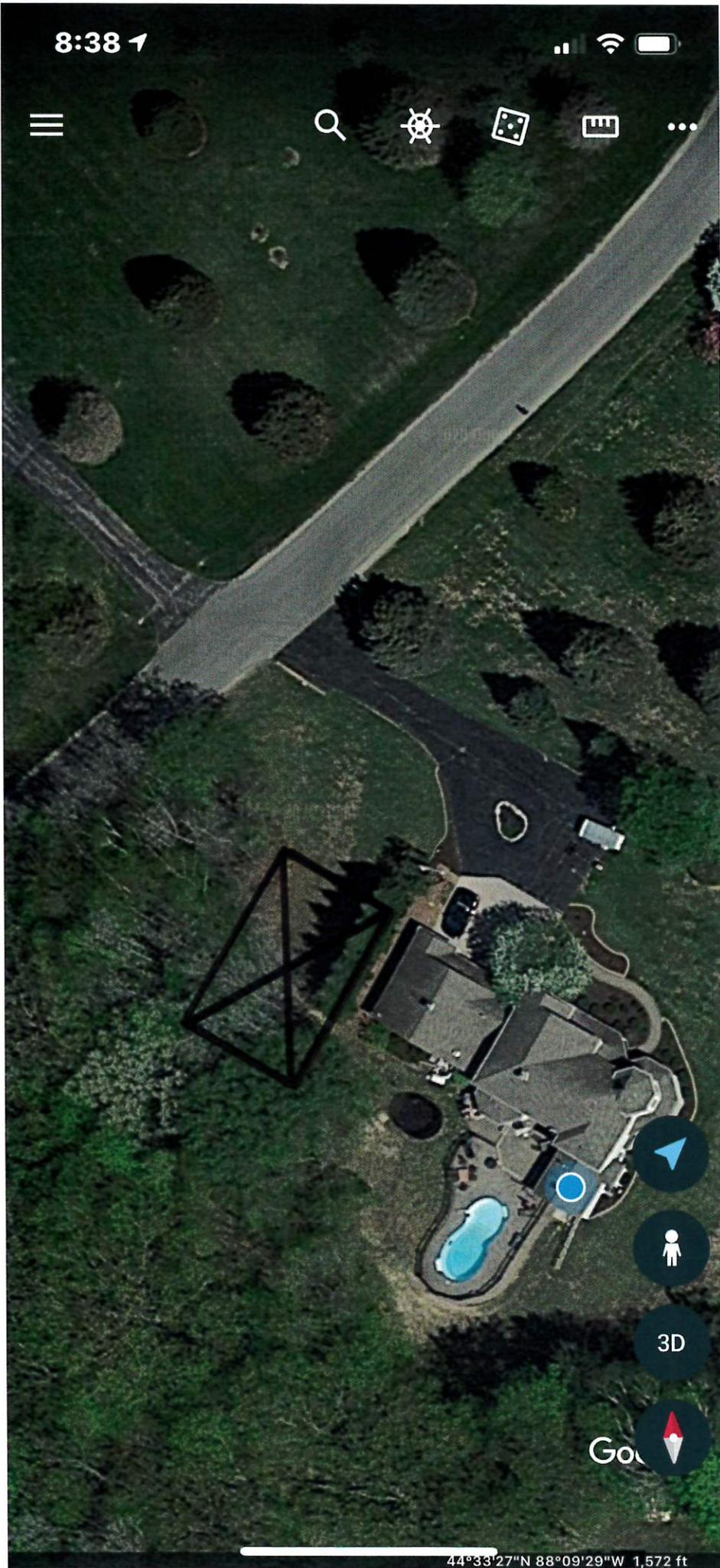
WISCONSIN  
Leslie D. Van Horn  
#1237  
Green Bay  
WI  
LAND SURVEYOR  
12-11-03

Leslie Van Horn, RLS 1237  
832 Kellogg St.  
Green Bay, WI 54303  
920-437-1044

8:38



↑  
N



Go

44°33'27"N 88°09'29"W 1,572 ft



MAY 20 2005

2990 S. Pine Tree Rd.  
Hobart, WI 54155  
tele: 920-869-3809  
fax: 920-869-2048

## Conditional Use Permit

A Conditional Use Permit is hereby granted for a 2,283 square foot detached accessory building located at 4629 Clear View Ln., Hobart, Wisconsin (HB-1491-F-11) as approved by the Village Board on April 14, 2020. This Permit is subject to the following Limitations and Conditions:

### Limitations:

- Total of 2,283 square feet for all detached accessory buildings
- Maximum overall height of new accessory building shall not exceed 25 feet or height of primary structure on site, whichever is less

### Conditions:

1. Planting of a minimum of 8 new arborvitaes a minimum of 6 feet in height along the side of the new detached accessory building facing Clear View Ln.;
2. All four building elevations of the new structure are constructed of materials similar to those on the existing residential dwelling on the property;
3. Vehicles that may be stored on site shall be limited to those that are customary and incidental to a single-family residence;
4. No exterior storing of vehicles, trailers, or other similar vehicles or equipment except for properly licensed and operable passenger vehicles;
5. Detached accessory building shall only be one story with a walk-up attic, not permitted to have a finished second floor/level.

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Director of Planning and Code Compliance

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Date