VILLAGE OF LITTLE CHUTE

ORDINANCE NO. 1 , SERIES OF 2014

AN ORDINANCE AMENDINGING THE ZONING CODE ARTICLE XV HIGHWAY OVERLAY DISTRICT SECTION 44-556 AND SECTION 44-557 OF THE VILLAGE OF LITTLE CHUTE MUNICIPAL CODE.

WHEREAS, the Plan Commission of the Village of Little Chute has recommended the following ordinance amendments; and,

WHEREAS, the required public hearing has been held before the Village Board of Trustees, Village of Little Chute; and,

WHEREAS, the Village Board of Trustees, Village of Little Chute, finds the following ordinance amendments to be in the public interest;

NOW, THEREFORE, the Village Board of Trustees, Village of Little Chute, do ordain as follows:

Section 1. That the Zoning Ordinance, Section 44-Article XV, Sections 44-556 and 44-557 of the Municipal Code of the Village of Little Chute are hereby amended to read as follows:

Sec. 44-556. Sign regulations.

(a) *Purpose.* The purposes of these sign regulations are: to encourage the effective use of signs as a means of communication; to maintain and enhance the aesthetic environment and the community's ability to attract sources of economic development and growth; to improve traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and, to enable fair and consistent enforcement of these regulations. The jurisdiction of these regulations shall include all lands within 1,320 feet from the centerline of USH 41/STH 441.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Exempt signs means signs that are clearly incidental to the principal use of the property and that is generally informational and contains no commercial message, such as "entrance," "no parking," or other similar directives. Also exempt are any public notice or warnings required by a valid and applicable federal, state or local law, regulation or ordinance.

Permitted signs means those signs used to identify a business located on-premises.

Prohibited signs means signs carry a commercial message other than the business name. Also prohibited are portable signs; beacons; tethered balloons and other inflatable signs; and, flashing signs except for time, temperature or other similar public service information.

Monument sign means a ground sign with the bottom of the sign a maximum of twelve (12) inches from normal grade and having dimensions of which are no greater than ten feet in width or ten feet in height and located more than 15 feet from any property line.

Property means all contiguous parcels or land under single ownership.

(c) *Design standards.* The design standards for signs are as follows:

(1) *Area.* A property shall be allowed 200 square feet of on-site identification signage per 500 feet of lineal street frontage. Every property shall be allowed a minimum of 200 square feet. The maximum allowable area shall be 400 square feet. If the sign is a multi-faced sign, the allowable area shall apply to each face, as long as only one face is visible from any location at a time.

(2) *Number.* The maximum allowable number of freestanding signs that will be permitted per property is two.

(3) *Height.* The maximum height of a sign shall be determined by the height regulations contained within the underlying zoning classification.

(4) *Setback.* Minimum setbacks for a sign shall be determined by the regulations contained within the underlying zoning classification. All signs shall be subject to a 50-foot setback from the USH 41/STH 441 highway right-of-way.

(5) *Electronic Message signs.* Are permitted only to be located upon a Monument sign which are located greater than 440 feet from the centerlines of USH 41/STH 441 highways.

(a) The restrictions for electronic message unit signs are as follows:

(1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.

(2) Segmented messages must be displayed for not less than one-half second or more than ten seconds.

(3) Traveling messages may travel no slower than 16 light columns per second and no faster than 32 columns per second.

(4) Signs shall not resemble, imitate or approximate the shape, size, form or color of traffic signs or devices. Signs shall not obstruct or interfere with the effectiveness of traffic signs, signals or devices or the safe flow of traffic. No sign shall be placed so as to obstruct or interfere with traffic visibility.

(d) *Computations.* The following principles shall control the computation of sign area and sign height:

(1) *Area of individual signs.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

(2) *Area of multi-faced signs.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

(3) *Height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

a. Existing grade prior to construction; or

b. The newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal

grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

(e) *Maintenance.* All sign shall be maintained in an orderly condition. Any sign which is highly rusted, has peeling paint or in any other way appears unattractive or in disrepair shall be deemed in violation of this zoning chapter and shall be removed or repaired in accordance with the provisions of this zoning chapter. Any structure which is identified as being an immediate threat to public safety by the department of community development may be removed without notice to the owner of the structure and at the owner's expense.

(f) *Nonconforming signs.*

(1) Signs lawfully existing on the effective date of the ordinance from which this zoning chapter is derived, which do not conform to the provisions of this article shall be considered legal nonconforming signs and may remain, as follows:

a. Such signs shall not be enlarged, extended or structurally altered or reconstructed in any manner.

b. Repairs to the structure are permissible provided that they do not result in the replacement of more than 50 percent of the structure or more than 50 percent of the structure's appraised value.

c. A legal nonconforming sign that is damaged or destroyed to an extent exceeding 50 percent of the appraised value prior to the damage shall be removed.

(2) Signs which did not lawfully exist prior to the effective date of the ordinance from which this zoning chapter is derived shall be considered illegal and shall be removed or made to conform to the provisions of this article. Removal shall be performed by the owner of the sign following a notice of violation. Should the owner of the structure fail to meet the requirements of the notice, the sign shall be removed by the community at the owner's expense.

Sec. 44-557. Noise regulations.

(1) *Purpose.* Land use control is a crucial component to highway generated noise abatement. Local government has a responsibility to discourage the development of noise sensitive land uses, such as homes and schools,

adjacent to highway corridors. It is the purpose of this section to minimize the adverse effects of noise through land use controls.

(2) *Definitions.* The following words, terms and phrases, when used in this subsection (g), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning. All other terminology used in the section, not defined in this subsection, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using A-weighing network. The level so read is designated dB(A) or dBA.

Commercial area. As defined in the zoning ordinance.

Construction means any site preparation, assembly, erection, substantial repair, alteration or similar actions, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.

Decibel (dB) means a unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Equivalent A-weighted sound level (LEQ) means the equivalent steady-state sound level, which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time. For purposes of measuring or predicting noise levels, a receptor is assumed to be at ear height, located five feet above ground surface. LEQ(h) means the hourly value of LEQ.

Habitable room means any room meeting the requirements of the uniform building code or other applicable regulations which is intended to be used for sleeping, living, cooking or dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet room, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

Local planning agency (LPA) means the agency, department or person having lead responsibility for this article.

Outdoor living area means spaces that are associated with residential land uses typically used for passive recreational activities or other noise sensitive uses. Such spaces include patio areas, barbecue areas, residential play areas; outdoor patient recovery or resting areas associated with hospitals, convalescent hospitals or rest homes; and, outdoor school facilities routinely used for educational purposes which may be adversely impacted by noise. The term "outdoor areas" does not included: front yard areas, driveways, greenbelts, maintenance areas and storage areas associated with residential land uses; exterior areas at hospitals that are not used for patient activities; outdoor areas associated with places of worship and principally used for shortterm social gatherings; and, outdoor areas associated with school facilities that are not typically used for educational uses prone to adverse noise impacts (for example, school play yard areas).

Person means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of the state of any political subdivision of the state.

Residential area. As defined in the zoning ordinance.

Sound means an oscillation in pressure, partial displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-197, or latest approved revision). If the frequency weighing employed is not indicated, the A-weighing shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighing networks used to measure sound pressure levels.

(3) *General provisions.*

a. No owner of any land within the jurisdiction of this article shall commence or cause to be commenced construction of any structure unless approved by the local planning agency (LPA).

b. Any application for approval required shall be submitted in writing to the LPA.

1. Identification of the land on which the construction is proposed, including the tax parcel number and legal description.

2. Information and data supporting the claim that the appropriate requirements will be met.

3. Any other information which the LPA may reasonably require.

(4) *Construction restrictions for habitable and institutional structures.*

a. No new single-family residential structure shall be approved for construction (excluding substantial repair or alteration) if any exterior hourly traffic sound level LEQ(h) anywhere within a proposed outdoor living area is projected to be equal to or in excess of 66 dBA, as depicted in the noise contour analysis. The required setback along USH 41, based upon the noise analysis, is 520 feet from the centerline of the near roadway of traffic. The required setback along STH 441, based upon the noise analysis, is 250 feet from the centerline of the near roadway of traffic.

b. No new multiple-family residence, dormitory, mobile home park, transient lodging, school, hospital, modification of such existing structure shall be approved for construction if any exterior hourly sound level LEQ(h) anywhere within a proposed outdoor living area on the site is projected to be equal to or in excess of 66 dBA, as shown in the noise contour analysis. The required setbacks are identified in subsection (g)(4)a of this section.

(5) *Recreational area restrictions.*

a. No land shall be designated or approved for construction or use as a public or private exterior recreational area, including, but not limited to, children's playgrounds, outdoor theaters and amphitheaters, picnic grounds, tennis courts and swimming pools, if any exterior LEQ(h) anywhere on the site of the proposed recreational area is projected to be equal to or in excess of 66 dBA, as shown in the noise contour analysis. The required setbacks are identified in subsection (g)(4)a of this section.

b. This section does not apply to the designation or approval of any green belt or open space provided that no recreational improvement or facility is constructed thereon.

c. Designation or approval of exterior recreational area otherwise prohibited under subsection (g)(5)a of this section shall be allowed if the noise level specified in that subsection can be achieved by appropriate means of sound attenuation, such as berms, barriers, or buildings at the perimeter of or elsewhere on the site.

d. No new interior recreational facility, including, but not limited to, gymnasiums, ice or roller skating rinks, indoor swimming pools, and tennis courts, shall be approved for construction if the LEQ(h), anywhere on the site is to be equal to or in excess of 66 dBA, unless there is incorporated into the design and construction of the structure such sound attenuation measures as necessary to reduce the maximum LEQ(h) to 51 dBA.

(6) *Commercial area restrictions.* No minimum setback for exterior LEQ(h) shall apply to any commercial or industrial use, except where exterior dining or recreation areas are within an area where the LEQ(h) is projected to be equal to or in excess of 66 dBA, as shown in the noise contour analysis. Such exterior dining or recreation areas shall be allowed if projected noise levels can be mitigated by appropriate means.

(7) *Site study requirements.*

a. If the LPA has reason to believe that a full report is necessary to determine whether a proposed project is prohibited, such report shall be made by the applicant prior to approval of any subdivision, zoning or building permit application. If a full report has not been presented and the applicant believes the project was wrongfully prohibited, he may file a full report within 21 days of the LPA decision and request reconsideration. A full report shall contain the following information and any other information which the LPA may reasonably require:

1. The existing maximum hourly traffic sound level, LEQ(h), for a representative sample of locations, measured in accordance with guidelines presented in "Sound Procedures for Measuring Highway Noise: Final Report," August 1981, U.S. Department of Transportation, Federal Highway Administration, Arlington, VA,

or modeled according to a methodology consistent with the FHWA Highway Traffic Noise Prediction Model (Report No. FHWA-RD-77-108);

2. The projected future LEQ(h) at the site resulting from traffic increases; and

3. Where applicable, plans for sound attenuation measures on the site and/or of the structure proposed to be built and the amount of sound attenuation anticipated as a result of these measures.

b. In determining whether an applicant should be required to submit a full report pursuant to subsection (g)(7)a of this section, the LPA shall consider the state department of transportation's Administrative Code TRANS 405 (Wis. Admin. Code ch. TRANS 405) and the Federal Highway Administration's Procedures for Abatement or Highway Traffic Noise and Construction Noise, Title 23, CFR ch. I, subch. H, part 772 (23 CFR 772.1—772.19).

(8) *Truth in selling or renting.* No person shall sell or rent, or cause to be sold or rented, any structure after February 21, 1996, or property to be used for human habitation where the structure or property is projected to be exposed to sound levels regularly equal to or in excess of 66 dBA, LEQ(h), as per the noise contour analysis, without making full written disclosure to all potential buyers or renters of the existence of such sound levels and of the nature of the sources.

(9) *Noise reduction design goals*

(a) *Purpose.* The purpose of this section is to provide a summary of noise barrier performance factors, definitions, source lists and rules of thumb that were presented at the USH 41/STH 441 corridor planning committee. More information and guidance on sound quality and noise barriers can be found within the sources listed at the end of this section. There are many noise barrier and sound quality related references, only a few of which are listed within this document. Other noise related references should be consulted prior to performing any noise related investigation. Consult your local library and any other facilities to obtain references.

(b) *Barrier performance.* A noise barrier's performance is based on the concept of barrier insertion loss. The barrier insertion loss is the difference in noise level measured at a particular location before and after the barrier is built.

(1) *Barrier insertion loss factors.* The actual barrier insertion loss that will be achieved depends upon the following five specific factors:

a. The barrier attenuation resulting from diffraction over the barrier top;

b. The transmission loss through the barrier;

c. The effects of possible multiple reflections when double barriers are built, one on each side of the highway;

d. Already existing attenuation from other (existing) barriers between a highway and a particular receiver; and

e. The attenuation resulting from the type of terrain that exists between the highway and the receiver.

(2) *Barrier diffraction.*

a. When a barrier is placed between a source and a receiver, a shadow zone is created. All receivers in the shadow zone experience some reduction in noise level relative to the level when no barrier is present. The amount of attenuation is directly related to the diffraction angle.

b. Any sound paths that can reach the receiver around the ends of the barrier can seriously degrade barrier attenuation. Barrier must be long enough. Sound paths that might reach the receiver through openings in the barrier, such as for access, can also seriously degrade attenuation. The barrier must not have openings for driveways or spaces in the construction material.

(3) *Barrier transmission.* The amount of sound that is transmitted through the barrier itself is related to the mass and stiffness of the material used in the barrier construction.

(4) *Barrier reflection.* When barrier walls occur on both sides of the roadway, multiple reflections between these parallel walls occur which may degrade barrier performance.

(5) *Multiple shielding effects.* When predicting noise from a roadway, the attenuation due to barriers, rows of homes, and vegetation are assumed to be additive. When multiple barriers are present, however, the attenuation of the most effective barrier is assumed to be the only attenuation used for barrier shielding purposes.

(6) *Ground effects.* Sound propagation over a hard, reflective surface, the common rule of thumb is that the change in noise level with distance is described by a three decibel per doubling of distance. (The rule is generally used.) When there is soft ground, the rule of thumb increases to a 4.5 decibel noise level change per doubling distance. (This rule is not generally used.) When a barrier is placed between the source and the receiver, the sound path is lifted over the barrier; therefore, the additional 1.5 dB per doubling of distance which results from propagation over soft ground is lost.

(c) *General rules.*

(1) Doubling or halving the distance between the source and the receiver will change the noise level by three decibels.

(2) A doubling of energy level results in a three decibel increase.

(3) A three decibel change is barely perceptible to the human ear in the natural environment.

(d) *Noise barrier rules.*

(1) The noise barrier inserted between the source and receiver blocking the line of sight will reduce the noise level by five decibels.

(2) For every additional two feet of barrier above the line of sight, a one decibel reduction in noise is achieved.

(3) Minimum noise barrier height must block the line of sight plus six feet above that to achieve an eight decibel reduction in noise.

(4) The noise barrier length must be a total of eight times the distance from the receiver to the barrier.

(e) *Noise terminology.*

(1) *Sound.* The vibration energy that causes pressure variations in mediums such as air and water. The ear is sensitive to these pressure variations and perceives them as sound.

(2) *Noise.* An unwanted sound.

(3) *Decibel (dB).* The unit of measurement for noise. The decibel scale explains the audible limits of the human ear. A level of zero corresponds to the lower limit of audibility. The upper limit, 140 dB, corresponds to the highest level, which causes pain rather than sound. This scale is a compressed view of the actual pressure variations. A doubling of energy level results in a three dB increase, which is barely perceptible in the natural environment. A tripling in energy level would result in a clearly noticeable change of five dB in the sound level. A change of ten times the energy level would result in a ten dB change in the sound level. This would be perceived as doubling (or halving) the apparent loudness.

(4) *Loudness.* The intensity of the pressure variations is perceived as loudness. A ten dB change in the sound level would be perceived as doubling (or halving) the apparent loudness.

(5) *A-weighting.* The human ear has a nonlinear sensitivity to noise. To account for this in noise measurements, electronic weighting scales are used to define the relative loudness of different frequencies. The A-weighting scale is used because it closely resembles the sensitivity of the human ear. The unit of measurement for an A-weighted noise level is dBA.

(6) *A-weighted equivalent noise level (LEQ).* Highway noise is not constant. It varies as every vehicle passes a point. The time varying characteristics of environmental noise are analyzed statistically to determine the duration and intensity of noise exposure. LEQ represents the average energy level of the time varying sound for the period of time being considered.

(f) *Sources.*

(1) The Audible Landscape, a Manual for Highway Noise and Land Use, prepared by Urban Systems Research and Engineering, Inc., Reprinted August 1976.

(2) A Guide to Visual Quality in Noise Barrier Design, by Randolph F. Blum, December 1976.

(3) Highway Noise Barrier Selection, Design and Construction Experiences, by C.H. Snow (FHWA Region 10), 1975.

(4) Noise Barrier Design Guidelines, prepared by Julie Farnham and Ed Beimborn, Center for Urban Transportation Studies, July 1990.

Secs. 44-558, 44-559. Reserved.

Section 2. Effective Date. This Ordinance shall take effect upon the adoption and publication and enactment of the Ordinance by the Village Board of Trustees, Village of Little Chute.

Introduced: March 26, 2014
Approved and adopted: April 2, 2014.

VILLAGE OF LITTLE CHUTE

By: Michael R Vanden Berg
Michael R. Vanden Berg, Village President

Attest: Laurie Decker
Laurie Decker, Village Clerk