

CHAPTER 17  
**ZONING CODE**  
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## INTRODUCTION

### **17.01 PURPOSE.**

This chapter is enacted to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot which may be occupied, size of yards, courts and other open spaces, density of population, location and use of buildings, structures and land for trade, industry, residence and other purposes and to divide the Village into districts of such number, shape and area as are deemed best suited to carry out such purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.

### **17.02 INTERPRETATION.**

- (1) The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village.
- (2) It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.

### **17.03 DISTRICTS.**

- (1) For the purposes of this chapter, the Village is hereby divided into 7 districts as follows:
  - (a) One- and Two-Family Residence District.
  - (b) Multiple Family Residence District.
  - (c) Agricultural District.
  - (d) Business District A.
  - (e) Business District B.

- (f) Industrial District.
  - (g) Mobile Home District. (Cr. #87-19)
- (2) The boundaries of the districts in sub. (1) are hereby established as shown on the map entitled “District Map, Village of Sturtevant, Wisconsin” which map is made a part of this chapter by reference. All notations and references shown on the district map are as much a part of this chapter as though specifically described herein.
- (a) The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the district map indicates that the various districts are approximately bounded by a street or alley, such street or alley centerline shall be construed to be the district boundary line.
  - (b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the district map are approximately bounded by lot lines, such lot lines shall be construed to be the boundaries of the district.
  - (c) In unsubdivided property, the location of the district boundary lines shown on the district map shall be determined by use of the scale shown on such map.
- (3) There shall be a certified copy of the district map described above. A copy of such map shall be kept in the office of the Village Clerk/Treasurer and shall be available for inspection by any person during regular office hours. Such copy shall bear on its face the notation that it is the certified copy of the district map, the certificate to be signed by the Village President and attested by the Clerk/Treasurer and it shall show the number and the title of the ordinance and the date of its adoption. Thereafter, no amendment to this chapter which causes a change in the boundaries of any district shall become effective until such change, together with a certificate describing the change, has been shown on the certified copy. Such certificate of amendment shall likewise be signed by the Village President and attested by the Clerk/Treasurer and shall show the number of the amending ordinance and the date of its adoption.

#### **17.04 DEFINITIONS.**

For purposes of this chapter, certain words and terms are defined as follows:

GENERALLY. Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; “building” includes “structure”; “shall” is mandatory and not directory.

Any words not herein defined shall be construed as defined in the State and Village building codes.

**AIRPORT, PUBLIC.** Any airport which complies with the definition contained in §114.002(18m), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

**ALLEY.** A street or thoroughfare less than 21' wide and affording only secondary access to abutting property.

**APARTMENT HOUSE.** See DWELLING, MULTIPLE.

**AUTOMOBILE WRECKING YARD.** Any premises on which more than one automotive vehicle not in running or operating condition is stored in the open.

**BASEMENT.** A story partly or wholly underground. The height of a basement shall be the vertical distance between the surface of the basement floor and the surface of the floor next above it.

**BOARDING HOUSE.** A building other than a hotel where meals or lodging and meals are furnished for compensation for 4 or more persons not members of a family.

**BODY PIERCE,** as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing. (Cr. #099-5)

**BODY-PIERCING ESTABLISHMENT** means the premises where a body piercer performs body piercing. (Cr. #099-5)

**BUILDING.** Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

**BUILDING, ACCESSORY.** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. An automobile trailer or other vehicle or part thereof or other building used as a temporary or permanent dwelling or lodging place is not an accessory building or use for the purposes of this chapter.

**BUILDING, HEIGHT OF.** The vertical distance from the average curb level in front of the lot or the finished grade at the front building line, whichever is higher,

to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

**BUILDING, MAIN.** A building constituting the principal use of a lot.

**DWELLING, ONE FAMILY.** A detached building designed for and occupied exclusively by one family.

**DWELLING, TWO FAMILY.** A detached or semi-detached building designed for and occupied exclusively by 2 families.

**DWELLING, MULTIPLE.** A building or portion thereof designed for and occupied by more than 2 families, including tenement houses, row houses, apartment houses and apartment hotels.

**EXCEPTION.** A use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, which is not in full conformity with the terms of this chapter but which is permissible by reason of special provisions of this chapter.

**FAMILY.** The body of persons who live together in one dwelling unit as a single housekeeping entity.

**FLOOR AREA.** The area within the exterior wall lines of a building; provided that the floor area or a dwelling shall not include space not usable for living quarters, such as attics, basements or utility rooms, garages, breezeways and unenclosed porches.

**FRONTAGE.** All the property abutting on one side of a street between 2 intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

**FRONTAGE, REVERSED.** Frontages facing at right angles or approximately right angles to each other within the same block.

**GARAGE, PRIVATE.** (Am. #93-10; #097-19) An accessory building or space for storage only of no more than 2 motor-driven vehicles where the lot area is less than 12,000 sq. ft. and no more than 3 motor-driven vehicles where such accessory building is attached to the main building and the lot area is 12,000 sq. ft or more.

**GARAGE, PUBLIC.** Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

**GARAGE, STORAGE.** Any building or premises used for the storage only of motor-driven vehicles by previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold.

**HOME OCCUPATION.** A gainful occupation conducted by members of the family only, within their place of residence.

**HOTEL.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any single room or apartment.

**JUNKYARD.** Any premises on which there is an accumulation of scrap metal, paper, rags, glass, scrap lumber or other scrap materials stored or customarily stored for salvage or sale, unless such accumulation will be housed in a completely enclosed building.

**LOADING SPACE.** An off-street space or berth on the same lot with a building or contiguous to a group of buildings and abutting on or having direct access to a public street or alley for the temporary parking of a commercial vehicle while loading or unloading cargo.

**LODGING HOUSE.** A building other than a hotel where lodging only is provided for compensation for not more than 5 persons not members of the family.

**LOT.** A parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory buildings, together with the open spaces required by this chapter and abutting on a public street or officially approved place.

**LOT, CORNER.** A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135°.

**LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT, THROUGH.** An interior lot having frontage on 2 nonintersecting streets.

**LOT LINES.** The lines bounding a lot as defined herein.

**NONCONFORMING USE.** A building or premises lawfully used or occupied at the time of the passage of this chapter or amendments thereto, which use or occupancy does not conform to the regulations of this chapter or any amendments thereto.

**PARKING LOT.** A building or premises containing one or more parking spaces, open to the public free or for a fee.

**PARKING SPACE.** An unobstructed piece of ground or floor space sufficient for the temporary storage of one automobile. Each such parking space shall be located off the public street but accessible thereto and shall be not less than 180-sq. ft. in area, exclusive of the means of ingress and egress. A loading space is not a parking space.

**PROFESSIONAL OFFICE.** The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

**ROADSIDE STAND.** A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed and used solely for the sale of farm products produced on the premises.

**SETBACK.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps. “Within the setback line” means between the setback line and the street line.

**STABLE.** The same meaning as GARAGE, one draft animal being considered the equivalent of one self-propelled vehicle.

**STORY.** That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it.

**STORY, HALF.** The space under any roof except a flat roof which, if occupied for dwelling purposes shall be counted as a full story for the purposes of this chapter.

**STREET.** All property dedicated or intended for public or private street purposes or subject to public easements therefor and 21’ or more in width.

**STREET LINE.** A dividing line between a lot, tract or parcel of land and a contiguous street.

**STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls which may affect the safe or sanitary occupancy of the building.

**STRUCTURE.** Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

**TATTOO,** as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin. (Cr. #099-5)

**TATTOO ESTABLISHMENT** means the premises where a tattooist applies a tattoo to another person. (Cr. #099-5)

**TEMPORARY STRUCTURE.** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

**TOURIST CAMP OR MOTEL.** A tract or parcel of land on which one or more buildings containing rooms for transients or one or more camp cabins are located or where temporary accommodations are provided for 2 or more automobile trailers or house cars, open to the public free or for a fee.

**VARIANCE.** A departure from the terms of this chapter as applied to a specific building, structure or parcel of land, which the Board of Appeals may permit, not in strict conformity with the regulations of this chapter for the district in which such building, structure or parcel of land is located, when the Board finds that literal application of such regulations will effect a limitation on the use of the property which does not generally apply to other properties in the same district and for which there is no compensating gain to the public health, safety or welfare.

**VISION CLEARANCE.** An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

**YARD.** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

**YARD, FRONT.** A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding only uncovered steps.

**YARD, REAR.** A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building,

excluding only uncovered steps. In the case of irregular or triangular lots, where none of the lines bounding the rear of the lot are at an angle of less than 45° to the front lot line, the rear lot line for the purposes of this chapter shall be a line 15' long, wholly within the lot, parallel to the front lot line or the main chord thereof and at the maximum distance from the lot line.

**YARD, SIDE.** A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and the side lot line.

## GENERAL PROVISIONS

### **17.10 APPLICATION.**

Except as otherwise provided in this chapter, the following regulations shall apply to all districts.

### **17.11 BUILDINGS AND USES.**

- (1) No provision of this chapter shall be construed to bar an action to abate the use or occupancy of any land, buildings or other structures as a nuisance under the laws of the State or ordinances of the Village.
- (2) No provision of this chapter shall be construed to prohibit the customary and necessary construction, reconstruction or maintenance of overground or underground public utility neighborhood service lines and mechanical appurtenances to such lines, where reasonably necessary for the preservation of the public health, safety, convenience and welfare.
- (3) The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- (4) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- (5) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.

- (6) Every building hereafter erected, converted, enlarged or structurally altered shall be located in a lot and in no case shall there be more than one main building on one lot.

**17.12 NONCONFORMING USES.**

- (1) The existing lawful use of a building or premises at the time of the enactment of this chapter or any amendment thereto may be continued although such use does not conform with the provisions of this chapter for the district in which it is located, but such nonconforming use shall not be enlarged or extended.
- (2) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.
- (3) A nonconforming use shall not be changed to any other nonconforming use unless or until a permit therefor shall have been issued by the Board of Appeals.
- (4) If a nonconforming use of a building or premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulations for the district in which it is located.
- (5) When a building containing a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of more than 50% of its current value, as determined by the Village Assessor, it shall not be restored except in conformity with the regulations of the district in which it is located. The total structural repairs or alterations in any nonconforming use shall not during its life exceed 50% of the local assessed value of the building at the time of its becoming a nonconforming use unless permanently changed to a conforming use.

**17.13 PRIOR PERMITS EXCEPTED.**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this chapter and the construction of which shall have been started within 6 months from the date of such permit and completed within 12 months of such date.

**17.14 ACCESSORY BUILDINGS.**

- (1) Accessory buildings which are not part of the main building shall comply with the following requirements:

- (a) For lots with an area greater than 108,900 sq. ft. (2 ½ acres) the owner may construct one building of 4,135 sq. ft. or less and a second building of 865 sq. ft. or less. If installing only one building, the owner may construct one building of 5,000 sq. ft. or less. Buildings in excess of 1,050 sq. ft. shall require a conditional use permit in accordance with Section 17.43 of the Village Zoning Code.
- (b) For lots with an area of 65,341 sq. ft. (1 ½ acres) to 108,900 sq. ft. (2 ½ acres), the owner may construct one building of 2,400 sq. ft. or less, and a second building of 865 sq. ft. or less. If installing only one building, the owner may construct one building of 3,265 sq. ft. or less. Buildings in excess of 1,050 sq. ft. shall require a conditional use permit in accordance with Section 17.43 of the Village Zoning Code.
- (c) For lots with an area of 12,000 sq. ft. to 65,340 sq. ft (1 ½ acres), the owner may construct one building of 900 sq. ft. or less, and a second building of 150 sq. ft. or less. If installing only one building, the owner may construct a building of 1,050 sq. ft. or less.
- (d) For lots with an area less than 12,000 sq. ft, the owner may construct one building of 600 sq. ft. or less, and a second building of 150 sq. ft. or less. If installing only one building, the owner may construct a building of 750 sq. ft. or less.
- (e) Notwithstanding the above subsections, accessory buildings shall not occupy more than 50% of the rear yard area.
- (f) Accessory buildings shall not exceed 15 feet in height, as measured to the top of the roof ridge board from the surrounding ground elevation.
- (g) Accessory buildings shall not be nearer than 8 feet to any lot line, except that buildings on or with respect to lots existing prior to the adoption of Ordinance 2003-32 (i.e., October 7, 2003) shall not be nearer than 4 feet to any lot line. Where a private garage has an entrance facing an alley, the entrance shall not be located nearer than 10 feet from the nearest alley line.
- (h) The provisions of Section 17.30 relating to “home occupations” and home “professional office” shall apply to all accessory buildings in residential districts.

**17.15 SPECIAL CIRCUMSTANCES.**

- (1) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and court in the 2 districts which abut the district boundary line.
- (2) When a housing project consisting of a group of 2 or more buildings containing a total of 8 or more dwelling units is to be constructed on a site not subdivided into customary lots and streets or where an existing lot and street layout make it impracticable to apply the requirements of this chapter to the individual building units, the Village Board may approve a development plan provided it complies with the regulations of this chapter as applied to the whole plat.

**17.16 HEIGHT AND AREA EXCEPTIONS.**

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (1) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 60' nor 5 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (2) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power transmission poles and lines, air conditioning units, boilers, antennas, microwave radio relay structures and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the Village.
- (3) Districts may be increased in height by not more than 10' when all yards and other required open spaces are increased by one foot for each foot by which such building exceeds the height limit of the district in which it is located.
- (4) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120' from the line of the higher average established grade.

- (5) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family.
- (6) A basement shall be counted as a full story for purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than 5' or if used for dwelling purposes.

**17.17 FRONT, SIDE AND REAR YARD REGULATIONS.**

- (1) No part of a yard or open space provided about any building in compliance with the provisions of this chapter shall be included as a part of a yard or open space required for another building.
- (2) Where boundary lines of different districts coincide there shall be a side yard in each district. The width of the side yard in the less restricted district shall be the average width of the required minimum side yards in the 2 districts abutting the boundary line.
- (3) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard and the ordinary projections of sills, belt courses, cornices and ornamental features extending not more than 12”.
- (4) Open and enclosed fire escapes and fire towers may project into a required yard not more than 5' provided they be so located as not to obstruct light and ventilation.

**17.18 SETBACKS.**

- (1) Where 50% or more of the frontage is occupied by buildings having setbacks which are greater or less than the setback required by this chapter for the district in which such frontage is located, the setback shall be the average setback established by such buildings.
- (2) Where less than 50% of the frontage is occupied by buildings, the setback for the remainder of the frontage shall be as follows: (Am. #089-04)
  - (a) Greater Setbacks. Where vacant lots abut an occupied lot having a setback greater than is required by this chapter, the setback on the abutting vacant lots shall be the average of the setback required by this chapter for the district in which such lot is located and the setback on the occupied lot.
  - (b) Lesser Setbacks. Where vacant lots abut an occupied lot having a setback less than is required by this chapter, the setback on the vacant lots shall be the

setback required by this chapter for the district in which such lots are located. No part of the building on such occupied lot which is within the setback line shall be enlarged or structurally altered unless such enlargement or structural alteration is outside the setback line required by this chapter for the district in which such lot is located. The purpose of this paragraph is to finally establish a setback line which is not less than the minimum setback determined to be necessary for the preservation of the public safety, health, welfare and convenience.

- (3) Subject to the provisions of subs. (1) and (2) above, but without regard to setback restrictions otherwise provided in this chapter, the following setbacks shall apply: (Cr. #089-04)
- (a) Durand Ave. Every building to be erected and constructed upon lands fronting on Durand Ave. in the Village shall be so constructed that the front of the building shall be set back not less than 50' nor more than 75' from the right-of-way line of Durand Ave.
  - (b) Wisconsin St. Every building to be erected and constructed upon lands fronting on Wisconsin St. in the Village shall be so constructed that the front of the building shall be set back not less than 4' from the line designated as the sidewalk line of Wisconsin St. provided, however, that on the east side of Wisconsin St. north of the north line of Park Court Subdivision as recorded, the setback shall be 75' from the east right-of-way line of Wisconsin St. and further provided that on the west side of Wisconsin St. north of the north line of the S½ of the N½ of Section 21, T3N, R22E, the setback shall be 25' from the west right-of-way line of Wisconsin St. No parking of vehicles shall be permitted within 25' of the right-of-way line of Wisconsin St. in such 75' and 25' setbacks.
  - (c) Washington Ave. Every building to be erected and constructed upon lands fronting on Washington Ave. in the Village shall be so constructed that the building shall be set back not less than 100' from the right-of-way of Washington Ave. No parking of vehicles shall be permitted within 25' of the right-of-way line of Washington Ave.
  - (d) Through Lots. Buildings on through lots which extend from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements of both streets be complied with.

**17.19 MOTOR VEHICLE PARKING.**

- (1) **WEIGHT LIMITED.** No commercial vehicle exceeding 2 tons rated capacity shall be stored in any storage garage.
- (2) **LOADING AND UNLOADING.** In any business or industrial district wherever a lot abuts upon a public or private alley, sufficient space for the loading and unloading of vehicles shall be provided on the lot in connection with any business or industrial use so that the alley shall at all times be free and unobstructed for the passage of traffic.
- (3) **OFF-STREET PARKING AND LOADING.**
  - (a) Required Off-Street Parking. Off-street vehicle parking space shall be provided for buildings and uses as specified in this section. Such parking shall be reasonably adjacent to the use or building being served; be intended specifically to serve the residents, patrons or employees of the use or buildings; and the required number of spaces shall be demonstrably usable and accessible for such purpose.
  - (b) Application to Existing Uses. The provision of parking space shall not be required for legally existing uses as of April 21, 1981, but shall be required for any expansion of such use by the addition of new primary floor area or other partial expansion of building or use generating new parking demand.
  - (c) Area. A required off-street parking space shall be at least 9' in width, 12' wide for handicapped and at least 20' in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Enclosed parking spaces shall have a vertical clearance of at least 7'.
  - (d) Access. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. No driveway across public property at the right-of-way line shall exceed a width of 35'
  - (e) Design and Maintenance.
    1. **Open and Enclosed Parking Spaces.** Accessory parking spaces may be open to the sky or enclosed in a building.

2. Surfacing. All open off-street parking areas containing 4 or more parking spaces shall be improved with a compacted base and a permanent-wearing surface.
- (f) Screening and Landscaping. All open automobile parking areas containing more than 4 parking spaces located less than 40’ from a property line shall be effectively screened on each side adjoining or fronting on any property situated in a residential district or any institutional premises by a wall, fence or densely planted compact hedge not less than 5’ nor more than 8’ in height.
- (g) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance and such lighting shall be extinguished 1/2 hour after the close of business except as may otherwise be permitted or required by the Village Board for maintaining illumination with less candlepower after the time specified above.
- (h) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with any parking facilities. No gasoline or motor oil shall be sold in conjunction with any accessory parking facilities unless such accessory parking facilities are enclosed in a building, in which case gasoline and motor oil may be sold within such building to the users of such accessory parking facilities, provided that no sign advertising the sale of same is visible from outside and provided further that all gasoline pumps shall be effectively screened from view from the public way.
- (i) Uses Not Enumerated. In any case as to parking requirements for any use except one and 2 family dwellings, such case should come to the Planning Commission which shall have the final authority to determine the appropriate application of the parking requirements to the specific situation.

(4) PARKING SPACES REQUIRED.

<u>Use</u>	<u>Parking Requirements</u>
Single Family Detached Residence	At least one space per dwelling, plus one space per 2 roomers or lodgers; but no more than 4 per single-family dwelling.
Two Family [Am. 10/19/93]	Two spaces per dwelling unit and an individual driveway per unit with room to park at least 2 cars.

Public Housing	One space per dwelling.
All Other Residential Uses (Townhouse, Multiple Family)	Two spaces per dwelling.
Public Assembly Facilities Providing for Seated Audiences (Churches, Theaters, Auditoriums, etc.)	One parking space per every 3 seats.
Hotels, Motels, Tourist Homes	One space per rental unit plus one space per every 3 employees.
Elementary and Secondary Schools	Two spaces per classroom or auditorium requirement (whichever is greater.
High Schools	One per 3 students of maximum peak hour capacity.

Use

Parking Requirements

Funeral Homes	Minimum 12 per chapel or parlor, plus 1 per funeral vehicle kept on premises.
Hospitals	One per every 3 beds plus one per every 2 employees.
Nursing, Convalescent, Rest and Homes for the Elderly	One per every 5 beds plus one per every 2 employees and one per staff doctor.
Clinics	Medical - 5 per doctor. Dental - 3 per doctor.
Industrial Uses	One per every 2 employees.
Office Buildings	One per every 2 employees.
Retail Stores, Shopping Centers	One per every 150 sq. ft. of primary floor area.
Rooming Houses, Boarding	One per each sleeping room.

Houses, Dormitories, Clubs with  
Sleeping Rooms

Customer Service Establishments  
(Barber, Beauty Shop, Appliance  
Repair, etc.)      One per every 100 sq. ft. of primary floor  
area.

Restaurants, Taverns, Supper  
Clubs and Bars      One space per 2 seats.

Gymnasiums, Health Salons,  
Swimming Pools, Skating Rinks  
and Dance Halls, Commercial      Minimum one space per 3 persons, based on  
maximum number of persons who may be  
accommodated at one time per design  
capacity and one per 3 employees.

Bowling Alleys      Minimum 7 spaces per alley, plus additional  
spaces required for additional uses such as  
restaurants and the like.

Financial Institutions      One space per 300 sq. ft. of primary floor  
area and one space per 2 employees.

Use

Parking Requirements

Automobile Service Stations      Minimum one space per employee, plus 2  
per each service stall.

(5) COMMERCIAL VEHICLE PARKING IN RESIDENTIAL DISTRICTS PROHIBITED. No person shall park or store any commercial vehicle or trailer weighing more than 6,000 pounds in any residential district in the Village, including multiple family residence districts, except for purposes of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence located in the residential district, unless such person obtains a conditional use permit under sub. (6).

(6) CONDITIONAL USE PERMIT TO ALLOW COMMERCIAL VEHICLE PARKING IN RESIDENTIAL DISTRICT. A person may apply for a conditional use permit to park a commercial vehicle at the applicant's residence in a residential district in accordance with the procedures set forth in Section 17.43 of this Municipal Code. The application shall include the applicant's name, the name of the owner of the site where the commercial vehicle would be parked or stored, a description of the commercial vehicle including its weight, the proposed route of travel to the applicant's residence, the names and addresses of all residents living

within 400 feet of the proposed site, and such other information as the Building Inspector requires.

## **17.20 ARCHITECTURAL CONTROL.**

- (1) **TITLE.** This section shall be known as the “Architectural Control Ordinance” of the Village of Sturtevant.
- (2) **OBJECT AND PURPOSE.** The purpose of this section is to promote the public health, safety and general welfare of the citizens of the Village by providing regulations concerning the architectural requirements pertaining to the exterior design of structures hereafter built, enlarged, altered, or demolished within or moved within or into the Village and to prohibit structures incompatible with the character of surrounding or neighboring structures constructed or being constructed and to thereby maintain and conserve the taxable value of land and buildings throughout the Village and prevent the depreciation thereof. The Village of Sturtevant hereby establishes Architectural standards to promote stability of property values, to promote compatible development, to protect certain public investments in the area, to maintain an attractive community as a place to live and work, to preserve character and quality, and to raise the level of community expectations for the quality of its environment.
- (3) **FINDING OF CONFORMITY.** No use, development, structure, or sign shall hereafter be erected, moved, reconstructed, extended, enlarged, altered, or changed until the Plan Commission has reviewed and approved site plans and architectural plans for the site, structures, or signs for all residential, commercial/business districts, and industrial districts. The Plan Commission shall not approve any plans unless the plans will not violate the intent and purposes of this ordinance. The Plan Commission has final say over the interpretation of all regulations in the Architectural Control Ordinance.
- (4) **SITE PLAN REVIEW.** The Plan Commission, Design Review Committee, and staff shall review the site, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewer and water systems, and the proposed operation. The Plan Commission will approve plans only after determining that:
  - (a) The proposed use conforms to all use and design provisions and requirements found in this Ordinance or any other codes or laws.
  - (b) The use or uses conform to the uses permitted for that zoning district per sections 17.30 through 17.38 of the Village Code.

- (c) The site plan must be consistent with the intent and purposes of this Ordinance which is to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing plans.
  - (d) When a site plan modification or addition is reviewed, all existing non-conformities and outstanding code violations shall be identified, resolved, and remedied.
  - (e) All buildings and structures shall conform to the required area, yard, setback, and height restrictions of the Village Zoning Ordinance sections 17.16, 17.17, and 17.18.
  - (f) Plans must adhere to the Village’s requirements for grading and drainage.
  - (g) Plans should meet all requirements for parking per section 17.19 of the Zoning Ordinance.
  - (h) Land, buildings, and structures are all accessible to emergency vehicles as well as the handicapped following proper ADA guidelines.
  - (i) Dumpsters and other trash receptacles are screened from view from street right-of-way and adjacent residential uses. Exterior screening should be comparable to the exterior of the building.
  - (j) Storage areas for materials, equipment, fuel, scrap, inoperative vehicles, and other such objects shall not be stored outside in areas that are visible from public right-of-ways or neighboring properties.
  - (k) Buffer Strip. Adverse effects of the development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping. Building permit and inspection is required for all fences per section 17.21 of the Zoning Code.
- (5) ARCHITECTURAL STANDARDS. The following architectural review principles, criteria, and review guidelines are established:
- (a) Appearance. No building shall be permitted if the design or exterior appearance of which is unorthodox or has an abnormal appearance in relation to its surroundings as to be unsightly or offensive to general accepted taste and community standards.

- (b) **Building Facade.** The principal building shall be architecturally finished on all sides. All front and street walls shall provide an architecturally detailed façade.
  - (c) All sides, elevations, or facades of all buildings or structures shall be architecturally and aesthetically pleasing, and buildings shall not be designed to be so unorthodox as to be unsightly or offensive.
  - (d) All buildings and structures shall be constructed of high quality materials using a high quality of craftsmanship. Examples of these types of high quality materials are brick, stone, wood, and glass.
  - (e) **Building Scale.** New, remodeled, or altered buildings must be in relative proportion to its neighboring buildings.
  - (f) **Color.** Structure and building color shall be in harmony with the existing neighborhood buildings. Colors shall be architecturally and aesthetically pleasing.
  - (g) **Heating, Air Conditioning, and Ventilating Equipment.** All shall be located in a manner to be unobtrusive and screened from view.
  - (h) All signs must follow the requirements set forth in Chapter 19 of the Village Code.
- (6) **PLAN COMMISSION DUTIES.** For the purposes of this section the Plan Commission shall be charged with the administration thereof. The secretary of the Plan Commission shall be known as the Zoning Administrator. In addition to the provisions above the Village Assessor shall be substituted for and take the place of the Building Inspector. The Village President or his designee shall be chairman and preside over Meetings of the Plan Commission which are called for by the Plan Commission to consider applications for building permits which he has found to comply with all other ordinances of the Village. The Plan Commission may, if it desires, hear the applicant for the building permit in question or the owner of the lot on which it is proposed to erect or move the structure in question, together with any other persons, whether residents or property owners desiring to be heard, giving such notice of the hearing as it may deem sufficient. Such hearing may be adjourned from time to time but not for more than 48 hours and within 48 hours after the close of the hearing the Plan Commission shall in writing make or refuse to make the finding required by sub. (3) as to conformity with the immediate neighborhood. Such finding and determination shall be in writing and signed on behalf of the Plan Commission by its chairman and secretary. The secretary shall

thereupon file a copy of such findings and determination in the office of the Village Clerk/Deputy Treasurer. Thereupon the Building Inspector shall issue or refuse to issue a building permit in accordance with the determination of the Plan Commission.

- (7) PER DIEM. The secretary of the Plan Commission shall be the Zoning Administrator and shall keep an accurate record of all proceedings. Each member shall receive a stipend per meeting, which shall be determined by the Village Board.
- (8) APPEAL. Any person feeling himself aggrieved by the findings and determination of the Plan Commission may appeal such findings to the Village Board within 10 days after written notice shall have been delivered to him, such appeal to be in writing setting forth the basis of the appeal and to be filed with the Clerk/Deputy Treasurer. Such appeal shall thereupon be heard at the next regular meeting of the Village Board. On the appeal, in the absence of proof to the contrary adduced before the Village Board, a refusal to grant the building permit shall be deemed to be based upon facts supporting the conclusion that the exterior architectural appeal and functional plan of structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values of the neighborhood within the applicable district.

**17.21 FENCES, SCREENS AND BUSHES.** (Cr. 6/7/89)

- (1) PERMIT. No fence shall be constructed in the Village without first obtaining a permit from the Building Inspector. The application for such permit shall be on a form prescribed by the Village and shall be accompanied by a plot plan showing the lot and the proposed location of the fence.
- (2) CONSTRUCTION AND PLACEMENT OF FENCES.
  - (a) In any residential district, fences shall not exceed the following heights. For purposes of this section the front yard shall extend from the front setback line to the front lot line.
    - 1. 6’ in height in side and rear yards.
    - 2. 3’ in front yards.
  - (b) In any business or industrial district fences shall not exceed 12’ in height.

- (c) In any mobile home park district, fences shall comply with the restrictions imposed in residential districts, except as otherwise provided in the approved plan of the mobile home park.
- (d) Fences shall be so constructed so as not to be incompatible with the character of surrounding or neighboring structures and so as not to cause a depreciation of property values. In the event there shall be any dispute with respect to the same, it shall be addressed as provided in Section 17.40.
- (e) Fences shall be so constructed and placed so that the side facing adjacent property (outer side) shall be at least as attractive as the side facing toward the fenced property (inner side). Fence post shall be placed on the inner side of the fence and shall not be larger than 4" x 4". Metal fence posts shall be set in concrete bases.
- (f) No barbed wire, creosote-covered materials or other injurious materials shall be used.
- (g) Fences must be totally within the installing property owners lot lines and shall be installed no closer than six (6) inches from the lot lines.

(3) MAINTENANCE OF FENCES, SCREENS AND BUSHES.

- (a) Fences and screens shall be maintained by the owner in an attractive and good condition.
- (b) Fences, screens and bushes located adjacent to a public right-of-way shall be maintained in such fashion so as not to extend into the public right-of-way so as to hinder, obstruct or endanger any person or property within the right-of-way.

(4) VISION CLEARANCE FOR CORNER LOTS. Notwithstanding the foregoing provisions, to provide adequate vision clearance for persons using the public highways, no fence, screening, structure, bush, tree, branches or mound shall be erected, grown, placed or maintained on a corner lot in the Village which shall obstruct the vision between 3' and 6' above the curb level or, if none, the street grade at the location, within a triangle formed by the intersecting street lines and a line connecting such street lines from points 15' from the intersection of the street lines.

## ZONING DISTRICTS

**17.30 ONE AND TWO FAMILY RESIDENCE DISTRICT.**

- (1) USE. In the One Family Residence District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
- (a) Single family dwellings.
  - (b) Churches, public and parochial schools, public libraries and museums. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions and asylums. Public recreational and community center buildings and grounds.
  - (c) Public hospitals and clinics, except hospitals for the care or treatment of epileptics, drug addicts, the insane or feeble-minded and veterinary hospitals and clinics, when such building shall be located not less than 100' from any lot in any residence district not used for the same purpose.
  - (d) Philanthropic and charitable institutions.
  - (e) Telephone buildings, exchanges and lines, transformers and electric substations, provided there is no service garage or storage yard, telephone, telegraph and power transmission poles and lines and necessary appurtenances. This regulation, however, shall not include microwave radio relay structures unless and until the location thereof shall first have been approved by the Board of Appeals. The setback requirements of this chapter shall not be applied to the necessary and customary construction, reconstruction and maintenance of public utility poles and lines.
  - (f) Farming and truck gardening, except chicken, fur and stock farms and farms operated for the disposal of garbage, rubbish or offal; nurseries and greenhouses only for the propagation of plants; provided that greenhouse heating plants and buildings in which farm animals are kept shall be distant not less than 75' from every lot line.
  - (g) Roadside stands; provided that no such roadside stand shall be more than 300 sq. ft. in ground area and there shall be not more than one roadside stand on any one premises.
  - (h) Accessory buildings or one private garage.

- (i) Not over 3 boarders or lodgers not members of the family.
- (j) Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.
- (k) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business.
- (1) Home occupations, provided that such occupation is incidental to the use of the premises for residential purposes and does not effect any substantial change in the character of the premises or the neighborhood, that no article is sold or offered for sale on the premises except such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that no sign other than one unlighted name plate no more than one foot square is installed and that no person other than a member of the immediate family living on the premises is employed.
- (m) Professional office. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than 25% of the floor area of only one story of a dwelling unit shall be occupied by such office and only one unlighted name plate, not exceeding one sq. ft. in area, containing the name and profession of the occupant of the premises shall be exhibited. Not more than one person not a member of the family shall be employed in any professional office which is established in such residential district.
- (n) Professional or announcement signs not over one sq. ft. in area, except that public or religious institutions may have, for their own use, an announcement sign or bulletin board not over 8 sq. ft. in area; signs not over 5 sq. ft. in area pertaining to the lease, hire or sale of a premises or building; or the protection of persons or property; and signs of standard design placed by public authorities for the guidance or warning of traffic; provided that no advertising sign of any other character shall be permitted in the Residence District; and provided further that all permitted signs shall be located within the lot lines at least 15' from the sidewalk line.
- (2) HEIGHT AND AREA. In the Residence District the height of buildings, the minimum dimensions of yards and the minimum lot areas per family shall be as follows:
  - (a) Height. Buildings hereafter erected or structurally altered shall not exceed 35' nor 2½ stories in height. A basement or cellar shall be counted as a story for

the purpose of height regulation if occupied for living purposes or if  $\frac{1}{2}$  or more of its height is above the average grade established for the street in front of the building or the average ground level at the front building line. See Section 17.16 of this chapter.

- (b) Side yard. There shall be a side yard on each side of a building as follows:
1. For buildings not over one story high, the sum of the widths of the required side yards shall not be less than 18' and no single side yard shall be less than 8' in width.
  2. For buildings more than one story high to  $2\frac{1}{2}$  stories high, the sum of the widths of the required side yards shall be no less than 23' and no single side yard shall be less than 8' in width. (Am. #097-29)
  3. If a garage is attached to a building, whether one or more stories high, the sum of the sides of the required side yards where such garages are located shall not be less than 12' and no single side yard shall be less than 4' in width; provided, however, that there shall not be any projection on such garage more than 4' above the roof line of the garage.
- (c) Setback. Unless otherwise provided, there shall be a setback line of not less than 25' wide and of record at the time of the passage of this chapter, where reversed frontage exists, the setback on the side street shall be no less than 50% of the setback required on the lot in the rear. In no case shall the buildable width of such corner lot be reduced to less than 24'. See Section 17.14 of this chapter.

Notwithstanding the above or any other setback requirements or prohibitions of this Chapter, decks or porches, as defined in Section 14.30, may be constructed within the front yard only, provided, however, that the deck or porch: (1) may not be higher than three feet above the average grade level of the adjoining ground; (2) may not extend more than 33% or 8 feet (whichever distance is less) into the front yard (excluding steps allowing access between the deck or porch and front yard); (3) may not obstruct lighting or ventilation of principal structure; and, (4) may not compromise the aesthetic or architectural appeal of principal structure

- (d) Rear Yard. There shall be a rear yard having a minimum depth of 25'. See §17.18 of this chapter.
- (e) Lot Area.

1. Every building hereafter erected or structurally altered for use as a one family dwelling shall provide a lot area of not less than 9,000 sq. ft. per family and no such lot shall be less than 75' wide.
2. Every building hereafter erected or structurally altered for use as a 2 family dwelling shall provide a lot area of not less than 6,000 sq. ft. per family and no such lot shall be less than 100' in width. [Am. 10/19/93]
3. No corner lot laid out or divided after July 19 1977, shall be less than 85' in width.
4. No building hereafter erected, altered structurally or moved on to a lot for residential purposes shall have a floor area of less than 1,200 sq. ft. in one family buildings or less than 2,400 sq. ft. in 2 family buildings.
5. The provisions of subpars. 1. through 4. above shall not apply with respect to lots of a lesser size which are a part of a subdivision plat within the Village which has been approved as a preliminary or final plat by the Village Board prior to July 19, 1977. Such lots shall meet the size and lot area requirements for One- and Two-Family Residence Districts as existed prior to adoption of Ord. #077-11.
6. Auto Parking. See Section 17.19 of this chapter.

**17.31 MULTIPLE RESIDENCE DISTRICT.**

- (1) USES. [Am. #090-22] In the Multiple Family Residence District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses provided, however, that all such uses shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.43 of this chapter:
  - (a) Any use permitted in the One and Two Family Residence District.
  - (b) Multiple family dwellings.
  - (c) Boardinghouses and lodging houses.
  - (d) Private clubs, fraternities, lodges, except those whose chief activity is a service customarily carried on as a business.

(2) HEIGHT AND AREA.

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 36’ nor 2 stories in height. A basement or cellar shall count as a story for the purpose of height regulation if occupied for living or if ½ or more is above the average grade established for the street in front of the building or the average ground level at the front building line. See Section 17.16 of this chapter.
- (b) Side Yard. There shall be a side yard on each side of a building hereafter erected or structurally altered. In all cases and regardless of the number of stories in any building, the sum of the widths of required side yards shall be not less than 25’ and no single side yard shall be less than 10’ in width. In cases where the lots are a part of a subdivision recorded at the time of the adoption of this chapter, the Board of Appeals shall have the power to award such variances in side yard requirements as are necessary to prevent an unnecessary hardship.
- (c) Setback. The setback requirements for the Multiple Family Residence District shall be the same as those for the One and Two Family Residence District, Section 17.30(2)(c).
- (d) Rear Yard. The rear yard requirements for the Multiple Family Residence District shall be the same as those for the One and Two Family Residence District. See Section 17.30(2)(d).
- (e) Lot Area Per Family.
  - 1. Every building hereafter erected or structurally altered for use as a one family or 2 family dwelling shall provide a lot area per family as required by the regulations for the One and Two Family Residence District, Section 17.30(2)(e).
  - 2. Every building hereafter erected or structurally altered for use as a dwelling by more than 2 families shall provide a dwelling area per unit as provided below:
 

<u>Bedrooms per Unit</u>	<u>Required Area</u>
1	600 sq. ft.
2	750 sq. ft.
3	900 sq. ft.
  - 3. There shall be a limit of 3 bedrooms per unit. The above area does not include public hallways or staircases.

- (g) Auto Parking. There shall be a minimum of 2 off-street parking spaces for each family unit in each multiple family dwelling.
- (h) Plan Commission Approval Required. The Building Inspector shall not issue a permit for the construction of a multiple family dwelling unless the plans and specifications are first approved by the Plan Commission as being in compliance therewith.
- (i) Size Limited. In no event shall any multiple family dwelling containing more than 4 family units be constructed within the Village.

### **17.32 AGRICULTURAL DISTRICT**

- (1) **USES**. In the Agricultural District no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:
  - (a) Any use permitted in the One and Two Family Residence District.
  - (b) Housing project. See Section 17.15(2).
  - (c) Hospitals and clinics, including veterinary hospitals and clinics.
  - (d) General farming, except fur farms and farms operated for the disposal of garbage, rubbish, sewage or offal.
  - (e) Roadside stands.
  - (f) Signs not over 8 sq. ft. in area advertising the sale of farm products produced on the premises, provided that such sign is located on that farm and is located not less than 15' from the highway right-of-way line.
- (2) **HEIGHT AND AREA**. In the Agricultural District the height of buildings and the minimum dimensions of yards shall be as follows:
  - (a) Height. Buildings hereafter erected or structurally altered shall not exceed 35' nor 4½ stories in height. See Section 17.16.
  - (b) Side Yards. There shall be a side yard on each side of a building hereafter erected or structurally altered for human habitation. The sum of the widths of such required side yards shall be not less than 35' and no single side yard shall be less than 14' in width. See Sections 17.11(4) 17.14, 17.15 and 17.17.

- (c) Rear Yards. There shall be a rear yard of not less than 30' in depth for every building hereafter erected or structurally altered for human habitation. See Section 17.17.
- (d) Setback. There shall be a setback line of not less than 30'. See Section 17.18.
- (e) Lot Area Per Family. Every building hereafter erected or structurally altered for human habitation shall have a lot area of not less than 10,000 sq. ft. and no such lot shall be less than 70' wide. See Section 17.30(2)(e).

### **17.33 BUSINESS DISTRICT**

- (1) USES. (Am. #090-22) In the Business District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses, provided, however, that all such uses permitted within the Business District shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.43 of this chapter:
  - (a) Any use permitted in more restrictive districts except single and multifamily residences.
  - (b) Any of the following specified uses:
    1. Art shop, antique shop, gift shop.
    2. Animal hospital, pet shop.
    3. Bakery (retail).
    4. Bank, financial institution.
    5. Barber shop, beauty parlor.
    6. Body-piercing establishments which are licensed under §HFS 173.04, Wis. Admin. Code. (Am. #099-05)
    7. Book and stationery store, news stand.
    8. Bowling alley, pool and billiard room, drive-in food or beverage stand.
    9. Bus depot.

10. Business and professional offices, public utility offices.
11. Candy store, confectionery store.
12. Clinic.
13. Clothing store, department store, dress shop, dry goods store, hosiery shop, millinery shop, shoe store, shoe repair shop.
14. Drug store, ice cream shop, pharmacy, soda fountain, soft drink stand.
15. Florist shop.
16. Food and dairy product establishments (retail), delicatessen, fruit and vegetable market, grocery store, meat market.
17. Furniture store, office equipment store, upholsterer's shop.
18. Hardware store, home appliance store, paint store, sporting goods store.
19. Hotel, motel.
20. Jewelry store, watch repair shop.
21. Laundry or cleaning and dyeing establishment employing not more than 5 persons on the premises.
22. Microwave radio relay structures.
23. Motor vehicle sales and service establishments.
24. Music store, radio and television store.
25. Optical store.
26. Photographer and photographer's supplies.
27. Police and fire station, post office.
28. Printing shop.
29. Public garage, parking lot, storage garage.

30. Restaurant, barbecue stand, cafe, cafeteria, caterer, lunchroom, tavern.
  31. Tailor shop, clothes pressing shop.
  32. Tattoo establishments which are licensed under §HFS 173,04, Wis. Admin. Code. (Am. #099-05)
  33. Telephone and telegraph office.
  34. Theaters and places of amusement, except drive-in theaters.
  35. Tobacco store.
  36. Undertaking establishment.
- (c) Any other uses similar in character to those listed in subsection (b), and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises. (Rnb. #099-05)
- (d) Such accessory uses as are customary in connection with the foregoing uses listed in subsection (b) and are incidental thereto. (Rnb. # 099-05)
- (2) **HEIGHT AND AREA.** In the Business District the height of buildings, the minimum dimensions of yards and the minimum lot area per family shall be as follows:
- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 45' nor 3 stories in height. See Section 17.16.
  - (b) Side Yard. For buildings or parts of buildings hereafter erected or structurally altered for residential use, the side yard regulations for the Residence District shall apply; otherwise a side yard, if provided, shall not be less than 6' in width. See Section 17.17.
  - (c) Setback. (Am. #089-04) The setback shall be 4' from the right-of-way line of the street, except where parts of the frontage in a single block are designated on the district map as a Residence District and Business District, the setback regulations of the Residence District shall apply to the Business District in such block and except as provided in Section 17.18 of this Municipal Code.

- (d) Rear Yard. There shall be a rear yard having a minimum depth of 20' for a building 2 stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased 5'. See Section 17.17.
  - (e) Lot Area Per Family. Every building or part of a building hereafter erected or structurally altered for residential purposes shall provide a lot area of not less than 7,200 sq. ft. per family. See Section 17.30(2)(e).
  - (f) Vision Clearance. No building erected at the intersection of 2 or more streets, where a setback of less than 10' exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle, free of visual obstruction of any kind, is provided at the corner of the building nearest such intersection. Such vision clearance triangle shall extend not less than 10' horizontally along each street line from their intersection and shall extend vertically from the curb line to the ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10' high.
  - (g) Auto Parking. See Section 17.19.
- (3) The Business District incorporates without exclusion those areas previously zoned as Business District A and Business District B (formerly Sections 17.33 and 17.34, respectively), and any reference elsewhere in this Municipal Code to “Business District A,” “Business District B,” or “Section 17.34” hereby instead refers to the corresponding part of this Section, and any reference to “Business District A” or “Business District B” is hereby amended to read “Business District.”

#### **17.34 ADULT ORIENTED ESTABLISHMENTS**

- (1) Findings.
  - (a) The board finds that adult oriented establishments as defined in this section require special zoning in order to protect and preserve the health, safety, and welfare of the village.
  - (b) Based on its review of certain reports and studies, which are available for inspection at the clerk's office during normal business hours, the board finds that there is convincing evidence that the secondary effects of adult oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing business and surrounding residential areas, including the risk of decreased property values.
  - (c) The board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry, to protect the citizens

- from increased crime, to preserve the quality of life, and to preserve the property values and character of surrounding neighborhoods and areas.
- (d) To minimize and control the secondary effects of adult oriented establishments, it is the board's intent to prevent the location of adult oriented establishments within a certain distance from each other and also from other specified locations which are incompatible with and which would particularly suffer from the secondary effects of adult oriented establishments.
  - (e) Based on their prominence as gateways to the village and their central importance to the continued economic well-being and growth of the village, the board finds that the State Trunk Highway 20 and State Trunk Highway 11 corridors are two areas of vital importance to the village which must be protected from the secondary effects of adult oriented establishments for the benefit of the health, safety and welfare of the community.
  - (f) It is not the board's intent to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult oriented establishments while providing an outlet for First Amendment protected activities.
- (2) Definitions. As used in this section, the following words and phrases shall mean:
- (a) Adult bookstore. An establishment which has a facility or facilities, including but not limited to booths, cubicles, rooms, or stalls, for the presentation of "adult entertainment", as defined below, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, DVDs, or magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.
  - (b) Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment which features:
    1. Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or,
    2. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.

- (c) Adult entertainment. Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.
- (d) Adult mini-motion picture theater. An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.
- (e) Adult modeling studio. Any establishment or business where a person who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university; or in a structure:
1. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
  2. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
  3. where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.
- (f) Adult motion picture theater. An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons therein.
- (g) Adult novelty shop. An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or design for specified sexual activity or stimulating such activity.
- (h) Adult oriented establishment. Any premises including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult modeling studios, adult novelty shops, or adult cabarets. It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the

- premises for the purposes of viewing adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. Adult oriented establishment further includes any establishment open to the public upon the premises of which is conducted an enterprise having as its dominant theme or which is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.
- (i) Adult booths, cubicles, rooms, compartments or stalls. Enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business adult entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the adult entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, cubicle, room, compartment or stall does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing adult entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- (j) Nudity. The appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or showing of the covered male genitals in a discernibly turgid state.
- (k) Operators. Any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (l) Specified anatomical areas.
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola.
  2. Human male genitals in a discernibly turgid state, even if opaquely covered.
- (m) Specified sexual activities. Simulated or actual:
1. Showing of human genitals in a state of sexual stimulation or arousal.

2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.
  3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (3) Uses. An adult oriented establishment shall be an allowed principal use in the Business District and the Industrial District, within the restrictions contained in this section, and shall be a prohibited use in any other zoning district. The adult oriented establishment may locate in the specified districts only if an adult oriented establishment license has been granted by the village, pursuant to subsections (5) through (9) of this section, and if all other objective requirements of this section and the applicable zoning district's regulations are met.
- (4) Regulations applicable to all adult oriented establishments.
- (a) Hours of operation. No adult oriented establishment shall be open for business at any time between the hours of 2:00 a.m. and 12:00 noon.
  - (b) Animals. No animals, except only for seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any adult oriented establishment or licensed premises.
  - (c) Restricted access. No adult oriented establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult oriented establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult oriented establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
  - (d) Exterior display. No adult oriented establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of an adult oriented establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed by this section with regard to signs. This subsection shall apply to any advertisement, display, promotional

material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

- (e) Sign limitations. All signs for adult oriented establishments shall be flat wall signs. The business may have only one (1) non-flashing business sign which may only indicate the name of the business and identify it as an adult oriented establishment and which shall not be larger than four (4) feet by four (4) feet. Temporary signs shall not be permitted in connection with any adult oriented establishment.
- (f) Noise. No loudspeakers or sound equipment audible beyond the adult oriented establishment shall be used at any time.
- (g) Manager's stations. Each adult oriented establishment shall have one (1) or more manager's stations. The interior of each adult oriented establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the adult oriented establishment to which any patron is permitted access for any purpose. The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.
- (h) Adult booths prohibited. Adult booths shall be prohibited in all adult oriented establishments.
- (i) No loitering policy. The adult oriented establishment shall clearly post and strictly enforce a no loitering policy.
- (j) Age limit restrictions. The adult oriented establishment shall clearly post and strictly enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only."
- (k) Measuring disbursement distances. The distances in this section shall be measured by following a straight line, without regard to intervening structures, from the public entrance (existing or proposed) of an adult oriented establishment to the nearest point of the protected use as described below.
- (l) Adequate parking. One parking space per one hundred fifty square feet of total gross floor area shall be provided in a lighted area on the licensed premises of an adult oriented establishment.
- (m) Disbursement requirement. No more than one adult oriented establishment may be located on any parcel, and the location of any adult oriented establishment shall be at least one thousand feet from any other adult oriented

establishment. This distance shall be measured from the public entrances of each adult oriented establishment.

- (n) Display windows prohibited. All points of access into structures containing adult oriented establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior.
  - (o) Location restrictions. No adult oriented establishment may locate within one thousand (1,000) feet of a residential use, residential district, house of worship, school, day care center, playground, public park, recreation area, library, museum, or the right-of-way of State Trunk Highway 20 or State Trunk Highway 11. In the case of an area zoned residential, the distance shall be measured from the nearest point on the residential district zoning boundary line. From an area not zoned residential but used for residential purposes, the measurement shall be taken from the public entrance of the adult oriented establishment to the nearest entrance of the building in residential use. From schools, houses of worship, day care centers, libraries, and museums, the distance shall be measured from the public entrance of the adult oriented establishment to the main public entrance of the protected use. From playgrounds, public parks, recreation areas, and schools, houses of worship and day care centers with playgrounds or recreation areas, the distance shall be measured from the public entrance of the adult oriented establishment to the nearest property line of the playground, public park, or recreation area. Along State Trunk Highway 20 or State Trunk Highway 11, this distance is measured from the outside highway right-of-way line, including frontage road(s).
  - (p) Residential quarters not allowed. No residential quarters shall be allowed on a premises with an adult oriented establishment.
- (5) Adult oriented establishment licenses. Operators shall obtain an adult oriented establishment license from the village by providing the village with at least the following information regarding the proposed adult oriented establishment, on such forms as are provided by the Village (if any), and by paying the requisite fee (if any):
- (a) Applicant information.
    1. *Individuals.* Applicant's legal name; all of the applicant's aliases, if any; the applicant's age and business address.
    2. *Corporations or limited liability companies.* Applicant corporation's or LLC's complete name and official business address; legal names, all aliases, the ages, and business addresses of all of the directors, officers, managers and members of the corporation or LLC and of every person

owning or controlling more than twenty-five (25) percent of the voting shares of the corporation or LLC; applicant corporation's or LLC's date and place of incorporation and the objective for which it was formed; proof that the corporation or LLC is in good standing and authorized to conduct business in the State of Wisconsin; name of the registered corporate or LLC agent; the address of the registered office for service of process.

3. *Partnerships (general or limited), joint ventures, or any other type of organization where two (2) or more persons share in the profits or liabilities of the organization.* Applicant organization's complete name and official business address; legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.
  4. *Land trusts.* Applicant land trust's complete name; legal name, all aliases, and the business address of the trustee of the land trust; legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust; the interest, if any, that the land trust holds in the licensed premises.
- (b) If a corporation, LLC, or partnership is an interest holder that shall be disclosed pursuant to subsections (a)(2) and (3), then such interest holders shall disclose the information required in said subsections with respect to their interest holders.
  - (c) The general character and nature of the applicant's business.
  - (d) The length of time that the applicant has been in the business of the character specified in response to subsection (c) above.
  - (e) The location (including street address and legal description) and telephone number of the premises for which the adult oriented establishment permit is sought.
  - (f) The specific name of the business that is to be operated under the adult oriented establishment permit.
  - (g) The identity of each fee simple owner of the licensed premises.

- (h) A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, the fixed structural internal features of the licensed premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches and sufficient to show clearly the various interior dimensions of all areas of the licensed premises and to demonstrate compliance with the provisions of this section. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and may not be interpreted or construed to constitute, any other approval otherwise required.
  - (i) The specific type(s) of adult oriented establishment(s) that the applicant proposes to operate on the licensed premises.
  - (j) A copy of each adult oriented establishment permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection (a) or (b) above.
  - (k) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult oriented establishment.
  - (l) The application fee, site plan review fee, and zoning permit fee in the amount as set periodically by resolution of the Village board.
  - (m) Any other information the village may reasonably require to apply the requirements of this section.
  - (n) The village reserves the right to require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements under this section, with the cost of such survey being borne by the applicant.
  - (o) A site plan, landscaping plan, zoning permit application, and letter of agent status, if necessary, as required by site plan review application requirements adopted by the village.
- (6) Incomplete adult oriented establishment license applications returned. Any application for an adult oriented establishment license that does not include all of the information and documents required pursuant to this section, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the

village, which shall give the applicant a written notification and explanation of such action pursuant to this section.

- (7) Adult oriented establishment applicant cooperation required. An applicant for an adult oriented establishment license shall cooperate fully in the inspections and investigations conducted by Village. The applicant's failure or refusal to give any information reasonably relevant to the investigation of the application, to allow the licensed premises to be inspected, to appear at any reasonable time and place for review purposes, or to otherwise cooperate with the investigation and inspection required by this section shall constitute an admission by the applicant that the applicant is ineligible for an adult oriented establishment license and shall be grounds for denial of the permit by the village.
- (8) Time for issuance or denial of adult oriented establishment licenses. The village board shall, within thirty days after submittal of a completed application, or within such other period of time as the village and the applicant shall otherwise agree, either issue or deny an adult oriented establishment license pursuant to the provisions of this section.
- (9) Standards for issuance or denial of adult oriented establishment licenses.
- (a). Issuance. The village shall issue an adult oriented establishment license to an applicant if the village board finds and determines all of the following:
1. All information and documents required by this section for issuance of an adult oriented establishment license has been properly provided.
  2. No person identified in the application has been denied an adult oriented establishment license within the twelve (12) months immediately preceding the date of the application, or has had an adult oriented establishment license revoked within the twelve (12) months immediately preceding the date of the application, or possesses an adult oriented establishment license that is under suspension at the time of application.
  3. The adult oriented establishment and the operator comply with all requirements of this section.
  4. The applicant has signed the permit he or she has received indicating his or her acceptance of the conditions of the permit.
- (b) Denial. If the zoning administrator determines that the applicant has not met any one (1) or more of the conditions set forth in this section, then the zoning administrator shall deny issuance of the adult oriented establishment permit and shall give the applicant a written notification and explanation of such denial.

- (c) License deemed to be issued. If the zoning administrator does not issue or deny the adult oriented establishment permit within thirty (30) days after the properly completed application is submitted, then the adult oriented establishment permit applied for shall be deemed to have been issued.
- (10) Enforcement. A violation of any restrictions imposed by this section or by an adult oriented establishment license is a violation of this section, and notwithstanding any other remedy, a violation of any conditions or an adult oriented establishment license shall be grounds for revocation of the adult oriented establishment license.
- (11) Continued conforming status. Any adult oriented establishment lawfully operating as a conforming use as of the effective date of this ordinance is not rendered a nonconforming use hereby.

**17.35 INDUSTRIAL DISTRICT.**

- (1) USE. (Am. #090-22) In the Industrial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses provided, however, that all such uses permitted within the Industrial District shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.43 of this chapter:
  - (a) Any use permitted in the Business District B, except residences, churches, schools, hospitals and charitable institutions.
  - (b) Any of the following specified uses:
    - 1. Automotive body repairs; automotive upholstery; cleaning, pressing and dyeing establishments; commercial greenhouses; food locker plants; laboratories; machine shops; manufacturing and bottling of beverages; painting; printing; publishing; trade and contractor’s offices and yards. Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles and wood. Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electric appliances, electronic devices, foods, meats, instruments, jewelry, pharmaceuticals, tobacco and toiletries. Freight yards, terminals and transportation depots. Gas powered electrical generating power plants. Quarters for the accommodation of a watchperson whose presence on the premises of the industrial use is required continuously during the hours when the premises are not open for business.

- 2 Any other similar type of use which is not in conflict with any of the laws of the State or any ordinance of the Village governing nuisances.
- (2) HEIGHT AND AREA. In the Industrial District, the height of buildings and the minimum dimensions of yards should be as follows:
- (a) Height. Subject to the exceptions set forth in Section 17.16, buildings hereafter erected or structurally altered shall not exceed either 80 ft. in height.
  - (b) Side Yard. A side yard, if provided, shall be not less than 12' in width.
  - (c) Setback. Where parts of the frontage are designated on the district map as Residence District and Industrial District, the setback regulations of the Residence District shall apply to the Industrial District; otherwise no setback shall be required.
  - (d) Rear Yard.
    1. There shall be a rear yard having a minimum depth of 20' for a building 2 stories or less in height.
    2. For each additional story or fractional story in height the depth of such rear yard shall be increased 3'.
  - (e) Vision Clearance. No building erected at the intersection of 2 or more streets, where a setback of less than 10' exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle, free of visual obstruction of any kind, is provided at the corner of the building nearest such intersection. Such vision clearance triangle shall extend not less than 10' horizontally along each street line from their intersection and shall extend vertically from the curb line to the ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10' high.

**17.36** [Repealed #89-27]

**17.37 PLANNED DEVELOPMENT DISTRICT**. [Cr. #094-6]

- (1) INTENT AND PURPOSE. The intent of this section is to encourage and promote improved environmental design in the development of land by allowing greater freedom and flexibility than is possible under the precise and rigid requirements of conventional zoning districts through the use of objective standards establishing goals and criteria for judgment rather than the application of fixed formula. It will

permit diversification in the uses permitted and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified projects, while still requiring substantial compliance to the general plan of development and the underlying zoning classification or classifications. Its purpose is to encourage more imaginative site planning, to assist in achieving more rational and economic development with relationship to public services, to permit optimum development of land and to encourage and facilitate the conservation of open land and other natural features such as woods, streams, wetlands, etc., as integral components of a balanced ecology.

- (2) **MINIMUM PLANNED DEVELOPMENT AREA.** To qualify for consideration as a planned development, the site shall be of sufficient size in relation to the proposed uses to justify the application of the special regulations as in this section and shall be under a single or unified ownership.
- (3) **PERMITTED USES.** In a planned development, any use permitted by right in any residential, business or industrial district in this chapter may be permitted, subject to the standards below. However, no use shall be permitted except in conformity with a specific and precise development plan approved under the procedural and regulatory provisions in this section and only uses permitted in the underlying zoning classification or classifications which is or are overlaid by the planned development district shall be permitted.
- (4) **STANDARDS.**
  - (a) General. As a basis for determining the acceptability of a planned development proposal, specific consideration shall be given to whether or not it is consistent with the spirit and intent of the purposes of this section; has been prepared with competent professional advice and guidance in terms of planning, architecture and engineering; and produces significant benefits in terms of improved environmental design. However, the minimum standards of the underlying district or districts shall be met in any event.
  - (b) Height and Area. Specific lot size, density, open space, building location, height, size, floor area, yard, parking and other such requirements shall be based upon determinations as to their appropriateness to the uses or structures as they relate to the total environmental concept of the planned development and consistent with the criteria in this chapter and with generally accepted basic standards necessary to protect the public health, safety and welfare.
  - (c) Parking. Off street parking facilities shall be provided in accordance with the applicable regulations in Section 17.19(4).

- (d) Design Standards. Engineering and subdivision design standards relative to street type, location and width, sidewalks, street lighting, storm drainage, lot arrangement or other elements of site design shall be based upon determinations as to the appropriate standards necessary to effectively implement the specific function in the specific situation, as it relates to the total plan concept; and consistent with the need for compatibility with existing patterns in areas peripheral to the development. In no case shall minimal construction standards be less than those reasonably required to protect the public health, safety and welfare. To this intent, the specific provisions of the Village Subdivision Code, Ch. 18 of this Municipal Code, may be waived where deemed appropriate in the case of a planned development.
- (e) Intensity and Character of Land Use. In a planned development, the suitability of the type and character of uses proposed and their intensity and arrangement on the site shall be based upon the following standards:
1. Compatibility to the physical nature of the site, with particular concern for conservation of natural features such as tree growth, streams, wetlands, geological features, natural resources, etc.; for suitability of soils for the uses proposed for preservation of open space, for careful shaping of terrain to minimize scarring and insure suitable drainage and for preservation of natural terrain wherever appropriate.
  2. Achievement of an attractive environment appropriate to the uses proposed and compatible with existing development in the surrounding area and with official development plans for the area, with particular concern for preservation of ecologic and economic balance.
  3. Capacity to be effectively serviced without creating a demand for schools, sanitary sewer, water, storm water drainage, recreational areas, highways or other public services substantially in conflict with the appropriate jurisdictional plans for such services.
  4. Adequate provision for the practical functioning of the development in terms of circulation, parking, emergency services, mail and delivery services, street maintenance and utility services.
  5. Adequate provision for appropriate sites for schools, parks, highways and other public facilities serving the proposed development.

(f) Provision for Common Open Space, Park or Other Amenity Area.

1. In a planned development consideration shall be given to the preservation of open space and other natural features such as woods, streams, wetlands, etc., as common open space, park land or other amenity area serving the recreational and aesthetic needs of the people in the development, the need created for such area by the development and the suitability or potential of the area for such use.
2. Such areas may include landscaped or naturalistic grounds, water bodies or specific recreational activity facilities and shall be of such size, shape, character and location as makes them a practical recreational amenity to the residents of the development or a contribution to the environmental quality of the development.
3. Adequate provision shall be made for the establishment, preservation and maintenance of common "open space," park land or amenity areas, either by private reservation or dedication to the public:
  - a. Dedication shall not be mandatory, but where public ownership is desired by the Village, reservation for such purpose may be required by the Village.
  - b. In the case of a private open space reservation, the open area to be reserved shall be protected against building development by conveying to the Village as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the development.
  - c. The care and maintenance of a private open space reservation or amenity area shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the conditions of approval and in the title to each property.

(g) Economic Feasibility and Impact. To minimize the possibility of adverse effect resulting from failure to implement an approved project or from the economic impact of its development upon the community, the proponents of a planned development shall provide satisfactory evidence of their economic feasibility to finance the project and that the economic prosperity of the area or

- the values of surrounding properties would not be adversely affected as compared to the impact of development which might reasonably have been anticipated under the zoning in effect at the time the planned development was proposed.
- (h) Implementation Schedule. Proponents of a planned development district shall submit a reasonable schedule for implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance each phase shall be brought to completion in a manner which would not result in an adverse effect upon the community.
  - (i) Enforceability. Such requirements as are made a part of an approved development plan shall be, along with the plan itself, construed to be enforced as a part of this chapter.
- (5) PROCEDURE. The procedure for rezoning to a planned development district shall be as required for any other zoning district change under this chapter, except that in addition thereto, the rezoning may only be considered in conjunction with a development plan and shall be subject to the following additional requirements:
- (a) Preapplication Conference. Prior to submittal of a formal application for approval of a planned community development, the applicant shall meet with the Plan Commission for an informal discussion of the proposed development in order to provide the basis for proper submittal and processing.
  - (b) Application.
    1. Submittal for approval of a planned community development shall be in the form of a general development plan and a precise implementation plan. The application may be for preliminary approval of a general development plan, followed by the submittal, in whole or part, of final detail plans for approval as a precise implementation plan or for a combined general development and precise implementation plan for all or part of the general development plan.
    2. The application for a general development plan, a general development plan with a precise implementation plan or a precise implementation plan shall be submitted in triplicate to the Clerk/Treasurer who shall transmit it directly to the Plan Commission for processing.
  - (c) General Development Plan. The application for approval of a general development plan is intended to provide sufficient definition of the proposed development to make possible a determination as to its basic acceptability in

terms of character; use pattern; intensity of use; economic, environmental and service impact and such other factors as would be pertinent to such basic decision prior to the preparation of detailed engineering, architectural and landscape architectural plans. Specifically, such submittal shall include the following:

1. A statement describing the general character of the intended development.
2. A legal description and an accurate map of the project area including its relationship to surrounding properties and existing topography and key features.
3. A site plan of the proposed development prepared by a competent professional site planner at a minimum scale of 1" = 200' showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval:
  - a. The pattern of proposed land use including shape, size and arrangement of proposed use areas density and environmental character and the relationship to surrounding uses.
  - b. The pattern of public and private streets, pedestrian ways and parking areas proposed and the relationship to existing streets.
  - c. The location, size and character of recreational and open space areas designated for private reservation or reserved or dedicated for public uses such as school, park, greenway, etc., or any other special amenity to be provided.
  - d. A utility feasibility study showing the general system of sewer, water and storm drainage.
  - e. A general analysis of the impact of the development upon traffic facilities.
4. Appropriate statistical data on the size of the development, ratio of various land uses, percentages of multifamily units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data pertinent to proper evaluation of the proposal.
5. General outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.

6. Any additional information requested by the Plan Commission as being necessary for adequate evaluation of the concept plan.
- (d) Referral and Hearing.
1. Within 60 days after completion of the filing of the petition for approval of a general development plan, the Plan Commission shall forward the petition to the Village Board with a recommendation that the plan be approved as submitted, approved with modifications or disapproved. Such report shall include findings of fact specifying the reasons for the Plan Commission's recommendation.
  2. Upon receipt of the Plan Commission's recommendation the Village Board shall determine whether or not to initiate a proposed zoning change to permit the proposed planned community development district and to schedule the required public hearing. If the Board fails to initiate such a change within 30 days, the petitioner may file a petition directly with the Clerk/Treasurer as provided by law.
- (e) Village Board Action. Within 30 days following receipt of the report of the Plan Commission, the Village Board shall approve the recommendation, approve the recommendation with modifications, disapprove the recommendation or refer the matter back to the Plan Commission for further consideration. In the case of approval or approval with modification, the Village Board shall adopt an ordinance establishing the planned community development district and approving the general development plan and therein may impose such conditions as it deems necessary to insure that the development conforms to such plan. Such approval of a general development plan shall establish the basic right of use for the area in conformity with the plan as approved, but shall be conditioned upon approval of a precise implementation plan, and shall not make permissible any of the uses as proposed until a precise implementation plan is submitted and approved for all or a portion of the general development plan.
- (f) Precise Implementation Plan. A precise plan for implementation of all or a part of a proposed planned community development district maybe submitted concurrently with a general development plan or within a reasonable period of time as determined by the Village Board. If a precise implementation plan, which the Village Board determines to be a reasonable phase of the total plan, has not been submitted within such time, the Village Board may revoke the approval of the general development plan. The precise implementation plan shall present in greater detail the information given approximately in the

general development plan and include sufficient detail to show substantial conformity to the general development plan. The precise implementation plan shall include the following detailed construction and engineering plans and related detailed documents and schedules:

1. An accurate map of the area covered by the plan, including the relationship to the total general development plan, at scale of 1" = 100' with contour lines at 2' intervals.
2. The pattern of public and private roads, driveways, walkways and parking facilities and proposed design and construction standards.
3. Detailed lot layout and subdivision plat where required.
4. The arrangement of building groups, other than single family detached residences.
5. Floor plans and elevations or perspectives showing the architectural treatment of all buildings other than single family detached residences.
6. Statistical tabulations showing the apportionment of land uses, the density of residential use, the ratio of apartments by bedroom count, the percentage of ground cover by buildings, the floor area ratio and the parking ratio.
7. Grading plan and storm drainage system.
8. Engineering plans for sanitary sewer and water system.
9. The location, type and design detail of all recreational or other special amenities.
10. Location and description of any areas to be dedicated to the public.
11. Landscape plans including plant materials list.
12. Proposed development schedule showing the overall phasing anticipated, the relationship of the proposed precise plan to the total schedule the starting and anticipated completion time for the phase covered by the precise plan and the area of open space to be provided with each phase.
13. Proposed financing plan, including any change in ownership interest involved.

14. If the plan contemplates any portion of the project to be implemented or subsequently owned by other than the petitioner, sufficient information concerning such arrangements shall be submitted to enable the Village to be assured that the development will be carried out in complete compliance with the spirit and intent of the approval granted.
  15. Analysis of the economic impact of the development upon the community.
  16. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the Planned Community Development and any of its common services, common open areas or other facilities.
  17. Any other plans, documents or schedules deemed necessary by the Village for proper evaluation of the proposal.
- (g) Public Hearing. If the precise implementation plan conforms substantially to the general development plan as approved, no public hearing shall be required, though the Plan Commission may hold informal hearings if it so desires. A precise implementation plan submitted for approval shall be deemed to conform substantially to the general development plan approved provided any modification therein, including any modification in location, design and number of buildings, roadways and utilities, does not change the concept or intent of the preliminary plan approved; increase the gross residential density or intensity of use by more than 10%; reduce the area set aside for common open space by more than 10%, or in any case below that required for a minimum; increase by more than 10% the floor area for nonresidential use, or increase by more than 5% the total ground area covered by buildings or structures.
- (h) Plan Commission Action. Within 30 days following the submittal of petition, the Plan Commission shall take action to approve the precise implementation plan as submitted, approve subject to specified modifications or conditions or deny approval.
- (i) Record. If the precise implementation plan, building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements which the Village offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans are approved, they shall be recorded by the developer within a

- reasonable period of time as determined by the Village Board in the Racine County Register of Deeds' office. This shall be accomplished prior to the issuance of any building permit.
- (j) Changes. If the precise implementation plan submitted does not conform substantially to the general development Plan previously approved or if the applicant desires to amend substantially a development plan previously approved in general or precise form, the changes therein or amendments thereto may be approved only by following the procedure for original approval. No changes in the precise implementation plan approved hereunder shall be considered to waive any of the covenants or agreements limiting the use of land, buildings, structures and improvements within the planned community development unless specifically so stated.
  - (k) Extension of Revocation. If no substantial construction has begun in the planned community development within 2 years after the approval by the Village Board of a precise implementation plan, the plan shall be subject to revocation upon written notice to applicant from the Village Board. The Village Board may grant extensions of such period. In the event of revocation hereunder, an appropriate instrument of revocation shall be filed in the Racine County Register of Deeds' office.
  - (l) Additions. Land contiguous to an existing planned community development may be added to such planned community development provided such land is made a part of the original development plan in all respects prior to its incorporation into such plan by an amendment of the development plan as provided in par. (j).

**17.38 INSTITUTIONAL DISTRICT.** (Cr. #095-4)

- (1) **USE**. In the Institutional District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
  - (a) Churches; public and private schools, colleges, universities, libraries and museums; government buildings; public garages, shops and storage yards; and penal or correctional institutions.
  - (b) Hospitals, sanitariums and asylums.
  - (c) Public parks and recreational facilities and buildings.
  - (d) Community center buildings and grounds.

- (e) Any other uses similar in character to those specifically set forth above.
- (f) Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

All such uses shall be conditional uses under the provisions of Section 17.43 of this chapter and shall require a conditional use permit thereunder.

- (2) **HEIGHT AND AREA.** In the Institutional District the height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:
  - (a) Height. Buildings hereafter erected or structurally altered shall not exceed 60' nor 5 stories in height.
  - (b) Yards. Etc. For buildings or parts of buildings hereafter erected or structurally altered the minimum dimensions of front, side, and rear yards, vision, clearance and provisions for automobile parking shall be the same as are required by the regulations of Business District B.

#### ADMINISTRATION AND ENFORCEMENT

#### **17.40 BOARD OF APPEALS.**

- (1) **ORGANIZATION, RULES AND PROCEDURE.**
  - (a) A Board of Appeals is hereby established. The Board of Appeals shall consist of 5 members appointed by the Village President, subject to confirmation by the Village Board, for 3-year terms. The members shall receive compensation as set by the board and shall be removable by the Village President for cause upon written charges and after public hearing. The Village President shall designate one of the members as chairman. The Village President shall also appoint, subject to confirmation by the Village Board, two alternate members for staggered terms of 3 years. Annually, the Village President shall designate one alternate as 1<sup>st</sup> alternate, who shall act with full power only when a member is absent or refuses to vote because of interest, and the other as 2<sup>nd</sup> alternate, who shall act with full power only when the 1<sup>st</sup> alternate or a member is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members and alternates whose terms become vacant. The Board of Appeals may employ a secretary and other employees.
  - (b) The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman and

- at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (c) The Board of Appeals 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 record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.
  - (d) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the Building Inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time. A filing fee in the amount periodically as set by the Village Board must accompany a Notice of Appeal to the Board of Appeals. (Am. #096-4)
- (2) **POWERS OF THE BOARD OF APPEALS.** The Board of Appeals shall have the following powers:
- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector.
  - (b) To hear and decide special exceptions to the terms of this chapter upon which the Board of Appeals is required to pass.
  - (c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done; but, except as specifically provided in this chapter, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district.

- (d) To authorize the construction of residential buildings in residential districts on existing 40' legal nonconforming corner lots and permitting reversed frontage with a minimum setback of 9' from the property line of the side street.
- (e) In every case where a variance from these regulations has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show that an "unnecessary hardship" or "practical difficulty" exists and the records of the Board shall clearly show in what particular or specific respects an "unnecessary hardship" or "practical difficulty" has been created by the regulations of this chapter.
- (f) The Board of Appeals may reverse or affirm wholly or in part, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Building Inspector. If a quorum of members or alternates is present, the Board of Appeals may take action by majority vote. The Board of Appeals shall make the reasoning of its decisions clear, either by issuing a written decision or by including adequate detail in the meeting minutes.
- (g) In addition to the above, the Board of Appeals shall have the following specific powers: (Am. #090-22)
  - 1. To grant a permit for a temporary building for commerce or industry in the Residence Districts which is incidental to the residential development, such permit to be issued for a period of not more than one year.
  - 2. To grant a permit for the extension of a district boundary for a distance of not more than 30' only where the boundary of a district divides a lot in a single ownership at the time of the adoption of this ordinance.
  - 3. To authorize the location of any of the following buildings or uses in any district from which they are otherwise excluded by this chapter, after giving notice and holding a public hearing thereon:
    - a. Cemeteries.
    - b. Fire stations.
    - c. Institutions of an educational, philanthropic or charitable nature, including sanatoriums and homes for the convalescent and aged.

- d. Public utility buildings, structures and lines for such purposes as may be reasonably necessary for the public safety, convenience and welfare.
  - e. Sewage disposal plants.
  - f. Storage garage.
4. To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of this plan as shown on the district map accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout on the district map.
- (h) Except as specifically provided herein, no action of the Board of Appeals shall have the effect of permitting in any district a use that is prohibited by the regulations for that district.
  - (i) The Board of Appeals shall have the power to call on any other Village department for assistance in the performance of its duties and such other departments shall render such assistance as may be reasonably required.
  - (j) In exercising the foregoing powers the Board of Appeals may in appropriate cases establish suitable conditions and safeguards in harmony, with the general purpose and intent of this chapter.

#### **17.41 CHANGES AND AMENDMENTS.**

- (1) The Village Board may from time to time on its own motion or on petition amend or change the district boundaries or the regulations herein, after first submitting the proposal to the Village Plan Commission for recommendation and report and after publishing a class 2 notice under Ch. 985, Wis. Stats., of the proposed changes and hearing thereon and an opportunity to any persons interested to be heard. At least 10 days prior written notice of changes in the district plan shall be given to the clerk of any municipality whose boundaries are within 1,000' of the land to be affected by the proposed change, but failure to give such notice shall not invalidate any such change.
- (2) In case of protest against such change, signed and acknowledged by the owners of 20% or more of the areas of land included in such proposed amendment, supplement or change or by the owners of 20% or more of the area of the land immediately adjacent extending 100' therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100' from the street frontage of such opposite

land, such amendment, supplement or change shall not become effective except by the favorable vote of  $\frac{3}{4}$  of the members of the Village Board.

**17.42 ENFORCEMENT.**

(1) **BUILDING INSPECTOR.** The Building Inspector, with the aid of the Police Department, shall enforce the provisions of this chapter.

(2) **LAND USE PERMIT.**

(a) No building shall hereafter be erected, moved or structurally altered until a land use permit therefor shall have been applied for and issued. Such land use permit shall be displayed in a prominent location on the premises, visible from the street, until the erection, moving or altering of such building shall have been completed.

(b) All applications for a land use permit shall be accompanied by location plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory buildings; the lines bounding the yards and other open spaces required by this chapter, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this chapter.

1. The Building Inspector may waive the above requirements as to location plans with respect to signs and temporary structures in the Business Districts and roadside stands upon the presentation of satisfactory evidence that such buildings and structures will comply with the regulations of this chapter governing the district in which such buildings or structures are to be located.

2. All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(3) **CERTIFICATE OF COMPLIANCE.**

(a) No vacant land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until a certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the

- building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. Application shall be made for such certificate when application is made for the corresponding land use certificate, but the certificate of compliance shall be issued only after inspection and when the building or premises and the proposed use thereof conform to all the requirements of this chapter.
- (b) Under such rules and regulations as may be established by the Village Board, the Building Inspector may issue a temporary certificate of compliance for part of a building.
  - (c) Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this chapter, certifying after inspection the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the chapter.

#### **17.43 CONDITIONAL USES.**

- (1) APPLICATION. Applications for conditional use permits shall be made in duplicate to the Building Inspector on forms furnished by the Building Inspector and shall include the following:
  - (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
  - (b) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - (c) Plat of survey prepared by a registered surveyor showing all of the information required under Section 17.42(2) for a land use permit and, in addition, the following: mean and historic high water lines on or within 40' of the subject premises and existing and proposed landscaping.
  - (d) Fee receipt from the Building Inspector for \$75.
  - (e) Additional information may be required such as ground surface elevations, basement and first floor elevations, utility elevations, historic and probable future floodwater elevations, areas subject to inundation by floodwaters, depths of inundation, floodproofing measures, soil type, slope, boundaries and plans for proposed structures giving dimensions and elevations pertinent to the

determination of the hydraulic capacity of the structure or its effects on flood flows.

(2) REVIEW AND APPROVAL.

- (a) Procedure. The Plan Commission shall recommend to the Village Board the approval or disapproval of the proposed conditional use and, if approval, the conditions under which it should be granted. Prior to the meeting during which the Plan Commission will review and make its recommendation as to a proposed conditional use, the Plan Commission shall cause to be published as a Class I notice its agenda indicating the Plan Commission's consideration of the proposed conditional, and further indicating that the Plan Commission will entertain any public comment as to the proposed conditional use during said meeting. After reviewing the Plan Commission's final recommendation, the Village Board shall then approve or disapprove such proposed conditional use and, if approved, shall specify the conditions under which it is approved.
- (b) Standards in Reviewing Conditional Uses. In reviewing the proposed conditional uses, the Village Plan Commission and the Village Board shall be guided by the following standards and considerations:
1. All conditional uses must be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover or property values in the Village and surrounding areas.
  2. A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems and the effect of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, the environment, neighboring properties and uses.
  3. Conditions such as landscaping, architectural design, type of construction, commencement and completion dates, sureties, lighting, fencing, location, number and size of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or additional parking may be required by the Village Board upon its finding that these are necessary to fulfill the

purpose and intent of this chapter and the applicable State and federal laws.

4. Compliance with all other provisions of this chapter such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses. Variances shall only be granted as provided in Section 17.40.
- (c) Decision. The Village Board shall decide all applications within 30 days and shall transmit a signed copy of its decision to the applicant.
  - (d) Expiration of Use. Conditional uses granted hereunder shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (3) ENFORCEMENT. (Cr. #93-6)
- (a) Responsibility. The Building Inspector, in conjunction with Village law enforcement personnel, shall be responsible for enforcement of compliance with conditional uses permitted hereunder. The owner of the property which is subject to a conditional use permit hereunder shall notify any purchaser, lessee or occupant of the property of the terms and conditions of such conditional use permit.
  - (b) Notice of Change of Use. Prior to any substantial change in use or conditions of use of property which was subject to a conditional use permit granted hereunder or prior to any substantial change in use or conditions of use of property which predated the adoption of the ordinance providing for a conditional use permit for such property, the owner, tenant or other user of the property shall notify the Building Inspector in writing, on forms furnished by the Building Inspector, of the proposed change in use. Such notice shall sufficiently describe the proposed use so as to permit the Building Inspector to reasonably determine whether such proposed use is in conformity with the conditional use permit previously issued or whether the use was substantially changed from the uses in effect at the time of the adoption of the ordinance providing for a conditional use permit. Within 10 days after receipt of such written notice, the Building Inspector shall notify the party in writing of his decision as to whether or not such proposed use is in conformity with the conditional use permit or such prior uses. If it is determined such proposed use is in conformity with the conditional use permit or is not substantially different from prior uses in effect at the time of the adoption of the ordinance requiring a conditional use permit, no further or amended conditional use permit shall be required. If it is determined such proposed use is not in conformity with the conditional use permit or is substantially different from prior uses in effect at

the time of the adoption of the ordinance requiring a conditional use permit, such proposed use shall not be effected without first obtaining a conditional use permit or an amended permit allowing such use. Any aggrieved person may appeal such determination to the Village Board under Ch. 68, Wis. Stats.

- (4) AMENDMENT. (Cr. #93-6) Any amendment to a conditional use permit shall only be granted upon application and review as provided above for the granting of a conditional use permit. The Village may waive requirements as to information already filed with the Village in connection with the existing conditional use permit.

#### **17.44 ANNEXATION.**

All territory hereafter annexed to the Village shall retain its zoning classification under the county or town zoning district boundaries and regulations so established shall remain in full force and effect until superseded by other district boundaries and regulations for such annexed territory adopted by the Village Board.

#### **17.45 VILLAGE PLAN COMMISSION.**

- (1) CREATION. A Plan Commission for the Village is hereby created.
  - (a) The Village Plan Commission shall consist of the Village President, who shall be its presiding officer, the Village Engineer, the Building Inspector, a trustee and 3 citizens. Citizen members shall be persons of recognized experience and qualifications.
  - (b) The trustee member of the Commission shall be elected by a 2/3 vote of the Village Board each April.
  - (c) The 3 citizen members of the Plan Commission shall be appointed for 3 year terms by the Village President, subject to confirmation by the Village Board. If there be no engineer or park board, additional citizen members shall be appointed in the same manner so that the Commission has 7 members as provided by law. The additional citizen members, if any, shall be first appointed to hold office for a period ending one year from the succeeding first day of May and thereafter annually during the month of April. Whenever a park board is created or a Village engineer appointed, the President of the Park Board or such engineer shall succeed to a place in the Commission when the term of an additional citizen member expires. (Am. #CO-88-13)
  - (d) Vacancies other than ex officio shall be filled by appointment for the residue of the unexpired term in the same manner as appointment for the full term.

- (e) The official oath required by §19.01, Wis. Stats., shall be taken by citizen members and filed with the Clerk/Treasurer.
- (2) **POWERS OF PLAN COMMISSION.** The Plan Commission shall have the powers and duties prescribed in §62.23, Wis. Stats., and such other powers and duties as shall be vested in them from time to time by law or the Village Board.
- (3) **NOTICE OF APPOINTMENT BY VILLAGE CLERK/TREASURER.** As soon as all members of the Commission have been appointed, the Clerk/Treasurer shall give each member a written notice of the appointment. The Commission shall elect a vice-chairman and a secretary and shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the Clerk/Treasurer. Four members shall constitute a quorum, but all actions shall require the affirmative approval of a majority of the members.
- (4) **POWER TO EMPLOY EXPERTS.** The Plan Commission shall have the power to employ experts and such staff as may be necessary and to pay for their services and such other expenses as may be necessary and proper within the limits of the budget established by the Village Board or placed at its disposal through gift and subject to any ordinance or resolution enacted by the Village Board. As far as possible the Commission shall utilize the services of existing Village officials and employees.
- (5) **ADOPTION OF RULES OF PROCEDURE.** The Plan Commission is hereby authorized to adopt rules governing its own proceedings, including setting fees, subject, however, to state statutes governing the same. Such procedures shall be approved by resolution of the Village Board before they become effective. The Commission, at or before its first regular meeting in February of each year, shall make a full report in writing to the Village Board of its transactions and expenditures, if any, for the preceding year, with such general recommendations as to matters covered by its prescribed duties and authority as may seem proper.
- (6) **MAPS.** The secretary of the Plan Commission shall see that the official map and zoning map of the Village are kept current.

**17.46. ADULT ORIENTED ESTABLISHMENTS TEMPORARY MORATORIUM**

**(1) Findings.**

- (a) The Village Board has reviewed certain studies which tend to indicate that adult oriented establishments (“AOEs”) can cause deleterious secondary effects on a community, including reduced neighboring property values, increased crime and increased public health hazards, if the location and operation of the AOEs is not properly regulated by the community; and,

- (b) The Village Board is also aware that any regulation of AOE's must be narrowly tailored so that the Constitutionally-protected speech in which the AOE's trade is not exceedingly or improperly burdened; and,
- (c) The Village Board believes that the Village's present zoning of AOE's may not pass Constitutional muster and also fails to adequately address the secondary effects that AOE's may carry with them; and,
- (d) Therefore, the Village Board deems it both proper and appropriate that a temporary moratorium on any new AOE's locating or operating in the Village should be established, as provided herein, to allow the Village sufficient time to further study the issues raised by AOE's and to establish appropriate zoning restrictions that will properly protect both the AOE operators' Constitutional rights and the interests of community at large.

1. Definitions. As used in this section, the following words and phrases shall mean:

- a. Adult Bookstore. An establishment which has a facility or facilities, including but not limited to booths, cubicles, rooms, or stalls, for the presentation of "adult entertainment", as defined below, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, DVDs, or magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.
- b. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which features:
  - 1. Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or,
  - 2. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.

- c. Adult Entertainment. Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.
- d. Adult Mini-Motion Picture Theater. An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.
- e. Adult Modeling Studio. Any establishment or business where a person who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university; or in a structure:
  - 1. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
  - 2. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
  - 3. where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.
- f. Adult Motion Picture Theater. An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons therein.
- g. Adult Novelty Shop. An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or design for specified sexual activity or stimulating such activity.

- h. Adult Oriented Establishment. Any premises including, but not limited to, “adult bookstores,” “adult motion picture theaters,” “adult mini-motion picture establishments,” “adult modeling studios,” “adult novelty shops,” or “adult cabarets.” It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. “Adult oriented establishment” further includes any establishment open to the public upon the premises of which is conducted an enterprise having as its dominant theme or which is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.
- i. “Booths”, “Cubicles”, “Rooms”, “Compartments” or “Stalls”. Enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business adult entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the adult entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth”, “cubicle”, “room”, “compartment” or “stall” does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing adult entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- j. Nudity. The appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or showing of the covered male genitals in a discernibly turgid state.

- k. Operators. Any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.
  
- l. Specified Anatomical Areas.
  - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola.
  - 2. Human male genitals in a discernibly turgid state, even if opaquely covered.
  
- m. Specified Sexual Activities. Simulated or actual:
  - 1. Showing of human genitals in a state of sexual stimulation or arousal.
  - 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.
  - 3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(11) Temporary Moratorium.

No new adult oriented establishment may locate or operate within the Village until January 1, 2009, or until such time as this Section is repealed following the adoption of an appropriate update of the Village's Code of Ordinances addressing the location and operation of AOE's, whichever occurs first.

OFFICIAL MAP

**17.50 PURPOSE.**

In order to conserve and promote the public health, safety, convenience and general welfare, there is hereby adopted and established the official map of the Village of Sturtevant which consists of 2 sheets: Sheet 1 of 2, Street Development Plan, for the area within the Village limits; and Sheet 2 of 2, Street Extension Plan, for the area outside the Village limits over which the Village has extra-territorial jurisdiction, in accordance with §62.23(6), Wis. Stats. It is the further purpose of the official map to show the width and location of streets, highways and parkways in order to promote the efficient and economical development of the Village.

**17.51 CERTIFICATE TO BE FILED WITH THE REGISTER OF DEEDS.**

Immediately upon adoption of this ordinance, the Village Clerk/Treasurer shall file with the County Register of Deeds a certificate showing that the Village of Sturtevant has established the official map as described in Section 17.50 above and shall do likewise as to any changes or additions.

**17.52 AUTHORITY OF THE VILLAGE PLAN COMMISSION.**

The Village Plan Commission, when passing upon a land subdivision plat referred to it by the Village Board, shall not recommend such plat for approval unless it conforms with the official map.

**17.53 BUILDING PERMITS, PLOT PLAN.**

For the purpose of preserving the integrity of the official map, no permit shall hereafter be issued for any building in the bed of any street, highway or parkway shown or laid out on such map except as provided in §62.23(6)(d) and (g), Wis., Stats. The proper official authorized by the Village Board to issue building permits shall require each applicant to submit a plot plan, certified by a qualified surveyor for approval. Such plot plan shall show accurately the location of any proposed building with reference to any streets as shown on the official map.

**17.54 VILLAGE BOARD MAY CHANGE.**

The Village Board, whenever and as often as it may deem it for the public interest, may change or add to the official map of the Village in conformity with the provisions contained in §62.23(6)(b) and (c), Wis. Stats.

**17.55 COMPREHENSIVE PLAN.**

The Village Board of the Village of Sturtevant, Wisconsin, formally adopt the document titled “A Multi-Jurisdictional Comprehensive Plan for Racine County: 2005,” pursuant to Wis. Stat. §66.1001(4)(c), as the Village of Sturtevant comprehensive plan. The comprehensive plan shall be available for public inspection in the office of the Village Clerk.

## VIOLATIONS AND PENALTIES

### **17.60 VIOLATIONS.**

Any building or structure hereafter erected, moved or structurally altered or any use hereafter established in violation of any of the provisions of this chapter shall be deemed an unlawful building, structure or use. The Building Inspector shall promptly report all such violations to the Village Attorney who shall bring action to enjoin the erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.

### **17.61 PENALTY.**

Any person who violates, disobeys, neglects, omits or refuses to comply with or who resists the enforcement of any of the provisions of this chapter may also be subject to the penalty provided in Section 25.04 of this Municipal Code. Each day that a violation continues to exist shall constitute a separate offense.