

ARTICLE E

Conditional Uses/Special Uses

(Revised Ord. 2010-04, May 11, 2010)

SEC. 13-1-60 STATEMENT OF PURPOSE -- CONDITIONAL USES.

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

SEC. 13-1-61 AUTHORITY OF THE VILLAGE BOARD; REQUIREMENTS.

- (a) The Village Board may, by resolution, authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Village Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Board resolution and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Village Board shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

- (d) 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.

SEC. 13-1-62 INITIATION OF CONDITIONAL USE.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

SEC. 13-1-63 APPLICATION FOR CONDITIONAL USE.

- (a) **Application.** An application for a conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Article E, Section 13-1-66 hereinafter. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
- (b) **Fees.** (Rev. 5/93) The application shall contain a fee receipt in the amount as set by resolution. See Village Clerk for fee schedule.

SEC. 13-1-64 HEARING ON APPLICATION.

All requests for conditional uses shall be to the Plan Commission or the Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Village Board on its own motion from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in Article E, Section 13-1-63 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Village Board. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Village Board shall, by rule, prescribe from time to time.

SEC. 13-1-65 NOTICE OF HEARING ON APPLICATION.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the

Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing. The Plan Commission shall report its action to the Village Board within thirty (30) days after a matter has been referred to it.

SEC. 13-1-66 STANDARDS -- CONDITIONAL USES.

No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Village Board unless such the Board shall find all of the following conditions are present:

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the proposed use does not violate flood plain regulations governing the site.
- (g) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Village Board and Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (i) That, in addition to passing upon a Conditional Use Permit, the Village Board and Plan Commission shall also evaluate the effect of the proposed use upon:
 - (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.

- (7) The need of the proposed use for a shore land location.
- (8) Its compatibility with uses on adjacent land.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

SEC. 13-1-67 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When an advisory recommendation is made by the Plan Commission or when there is a denial of a conditional use by the Village Board, the Village shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Board has used in determining that each standard was not met.

SEC. 13-1-68 CONDITIONS AND GUARANTEES.

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Village Board may stipulate such conditional use and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Article E, Section 13-1-66 above. In all cases in which conditional uses are granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include but are not limited to specifications for:
 - (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Specified sewage disposal and water supply systems;
 - (15) Planting screens;
 - (16) Piers and docks;
 - (17) Increased or decreased parking;
 - (18) Architectural design;
 - (19) Site design;
 - (20) Preservation of site features such as buildings, landscape, or scenic views
 - (21) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Professional Review Assistance.** In making its recommendation, the Plan Commission shall evaluate each application and may request technical or

aesthetic design assistance from any professional source which can provide these services. The costs of these professional services will be billed to the applicant.

- (c) **Plan Review.** The Plan Commission, Village Board or professional reviewers may request certain development plans, surveys or other supporting information to allow proper review of the proposed conditional use. These plans and supporting materials may include, but are not limited to, the following:
- (1) Surveys of existing conditions on the subject site and surrounding properties (e.g. land uses, zoning, structures, paving, utilities, access points, boundaries, lot lines, easements, setbacks, topography, soils, vegetation, water, wetlands, floodplains, significant historic or cultural features, etc.)
 - (2) Photographs of existing site, surrounding properties and public areas
 - (3) Proposed color Site Plan showing relationship to surrounding properties and public areas
 - (4) Proposed color Landscape Plan showing relationship to surrounding properties and public areas
 - (5) Proposed Architectural Plans, color Elevations and color Renderings showing relationship to surrounding properties and public areas
 - (6) Proposed Utility, and Stormwater Plans showing relationship to surrounding properties and public areas
 - (7) Site development data (e.g. lot sizes, densities, intensities, etc.)
 - (8) Descriptions of existing and proposed traffic and circulation, including a Traffic Impact Analysis if applicable
 - (9) Descriptions of existing and proposed development and relationship to surrounding properties
 - (10) Descriptions of existing and proposed building and site operations if applicable
- (d) **Architectural, Site, and Landscape Designs.** Proposed architectural, site design and landscape treatments shall be in general harmony with surrounding land uses, buildings, landscape areas, and public areas. To this end, the Village Board may require the use of certain types of construction materials and/or architectural and landscape treatments or designs. In addition, at minimum, all architectural designs, site designs, and landscape designs shall be in compliance with design guidelines given for the underlying zoning district unless approved by the Village Board, after recommendation from the Plan Commission.
- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- (f) **Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading unless approved by the Village Board, after recommendation from the Plan Commission.

- (g) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Village Board, after recommendation from the Plan Commission.

SEC. 13-1-69 VALIDITY OF CONDITIONAL USE PERMIT.

Where the Village Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twenty-four (24) months of the date of the Boards action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is, made to the Village Board at least thirty (30) days before the expiration of said permit.

SEC. 13-1-70 COMPLAINTS REGARDING CONDITIONAL USES.

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Article E, Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Article E, Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Article E, Section 13-1-66 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Article E, Section 13-1-66 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

SEC. 13-1-71 BED AND BREAKFAST ESTABLISHMENTS.

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- (b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve

(12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

- (c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

SEC. 13-1-72 HOME OCCUPATIONS.

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family business as a conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations.** Home occupations are a conditional use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:
- (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
 - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
 - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 - (5) Only one (1) sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated.
 - (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.
 - (7) The Village Board may determine the percentage of the property that may be devoted to the occupation.
 - (8) The home occupation shall be restricted to a service-oriented business. The manufacturing of items or products or the retail sale of items or products on the premises is prohibited.
 - (9) The types and number of equipment utilized may be restricted by the Village Board.
 - (10) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
 - (11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.
 - (12) Not more than one (1) non-resident employee may work at the home occupation site.
- (c) **Annual Conditional Use Permits.** Conditional use permits for home occupations shall be valid for one (1) year and may be renewed using the application and review procedures of this Article. The fee for an initial permit and the fee for renewals shall be set by resolution. See Village Clerk for fee schedule.

SEC. 13-1-73 SPECIAL USE PERMITS. (Rev. 4/98)

- (a) **Purpose.**
- (1) The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed special uses.
 - (2) Special uses are those uses which have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of the Zoning Code. In order to prevent this from occurring, all special uses are required to meet certain requirements applicable only to special uses, in addition to the general requirements of the Zoning Code and the requirements of the zoning district in which the subject property is located.
 - (3) Land uses proposed which fail to meet one of the requirements for special uses may be reviewed as a conditional use.
- (b) **Regulations Applicable to All Special Uses.** No public hearing is required to develop a special use; however, a demonstration that the developer proposes to meet all special use requirements of the Zoning Code must be made at time of site plan application. Furthermore, no building permit shall be issued for any development which does not comply with all requirements of the Zoning Code. Any special use found not to be in compliance with the terms of the Zoning Code shall be considered in violation of the Zoning Code and shall be subject to all applicable procedures and penalties.
- (c) **Application Requirements.** All applications for proposed special uses shall be approved as complete by the Plan Commission prior to certification of the proposed special use. Said complete application shall be comprised of the following:
- (1) A certified survey map of the subject property showing the location of the proposed structures.
 - (2) A copy of the Deed Restrictions required by Article C, Section 13-1-26(g) of the Zoning Code.
- (d) All applications for proposed special uses shall be approved, denied, or approved with conditions by the Plan Commission within ninety (90) days of submittal.

SEC. 13-1-74 THROUGH SEC. 13-1-79 RESERVED FOR FUTURE USE.